

# SOCIAL WORK OF THE CHURCH

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## THE CHURCH IN ITS SOCIAL ASPECT

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BY REV. EDWARD JUDSON,  
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The local church, when it finds itself in a peculiarly unresponsive and adverse environment, instinctively proceeds to supplement its ordinary functions, as preaching, prayer meeting, Sunday school, and pastoral visitation, with a system of philanthropic and educational institutions, through which it endeavors to touch people on the physical, social, and mental sides, in order to draw them within hearing of its religious message. In this way it becomes an institutional church. Church institutionalism is nothing more than organized Christian kindness. At bottom it is no new thing. Any church that has a sewing circle, is in just so far an institutional church; which only does as a social body, and in a systematic way, exactly what the individual Christian instinctively does, when, by acts of kindness, he subdues the hearts of men into receptiveness. The community is touched in a new spot when it finds out that the Church is interested in the welfare of the whole man. There could hardly be devised a more efficient philanthropic appliance for ameliorating the misery of a great town than the network of churches spread through its congested places, provided each church intelligently and profoundly interests itself in the cure of the social sores constantly exposed to its pitying eye. Some people are fond of tracing the roots of all our modern philanthropy back to Christianity; but the connection between the Man of Nazareth and the social compunction of the present day would seem more direct if the churches that bear His name, instead of leaving to private individuals, or to the state, or to societies exclusively charitable, the burden of caring for those who suffer, should themselves engage in the sympathetic study of social problems, and should feel a certain responsibility for man's welfare here as well as hereafter. If each church should, even in a small way, befriend the miserable close by its side—neglected children, the aged poor, the sick, the intemperate, the indigent, the fallen, then the working man as he passes a place of worship would have the same tenderness of spirit

as comes over him now when he passes some great hospital and sees the white faces of little children at its windows and thinks to himself that his turn may come to be folded in its shelter and embrace. The social forms through which the Church expresses its sympathy and compassion are like the soft tentacles which some creature of the sea stretches out on every side in order to explore the dim element in which it swims, and to draw within itself its proper food. The Church needs just such organs of prehension with which to lay hold upon the community about it. The Institutional Church is a kind of tentacular Christianity. The divine Peasant, had He been acquainted with modern agricultural processes, might have carried His Parable of the Sower a step further than He did, and laid upon His disciples not only the task of scattering the seed over all kinds of soil, but also the more strenuous labor of changing into good ground the hard road-bed, the thorny patches, and the rocky places. This surely would not have been incongruous with His own example and His subsequent teachings.

Having defined the Institutional Church, we inquire next in what kind of field it finds its richest opportunity for development and operation. It is under the pressure of an adverse environment that the local church tends to *institutionalize* (if we may coin a word suited to our definition). There are spots, it may be, in new and growing towns, or in the suburbs of large cities, where the currents of social life converge in favor of ecclesiastical growth. Church-going people arrive in shoals, and, unless the churches, in their eagerness to pre-empt such fields, which they are fond of calling strategic points, get in each other's way, and multiply so rapidly that the supply exceeds the demand, they seem to grow of themselves. The ordinary methods suffice. Given a good minister, with a commodious meeting house and alluring music, success comes swiftly and inevitably along the worn pathway of sermon, and prayer meeting, and Sunday school, and pastoral visitation; that is, if you mean by success, not the diffusion of Christian truth throughout society at large, but the building up of one's own church. The minister's pleasure, however, in seeing his own pews filled is mitigated by the reflection that other churches somewhere else are correspondingly empty. His sheep bear the brand of previous ownership. No dent has been made upon the great non-church-going mass. He has only given the ecclesiastical kaleidoscope a turn,

and produced a new arrangement of the same old bits of colored glass. What is the net gain to Christianity at large, when one church has achieved its development by sucking the life out of a score of feebler ecclesiastical growths? In such fields there seems little call for the Institutional Church, and all her devices are lightly esteemed.

It is in more difficult fields that she gains her scanty triumphs, as in the low, congested sections of our large cities, where, against the few churches that have been left behind in the general exodus, all the great social currents swiftly and steadily converge. Lower New York, for instance, offers a rich field for institutional experimentation, and indeed upper New York seems all the time becoming lower New York. The south end of Manhattan Island, rapidly narrowing down to its vanishing point at the Battery, is densely filled in with business buildings, little space being left for residential uses, as liquid fills a retort evenly and completely from the bottom up, as far as it reaches. But from the City Hall upward the island abruptly widens out east and west, becoming twice as wide. It is a walk of a mile from river to river along Fulton street, and of two miles and a half along Houston street. Now, from the point where this widening occurs, business does not monopolize the whole surface of the ground to the exclusion of residences. It skirts the water fronts and the main thoroughfares, like Broadway, and it climbs skyward by means of elevators, leaving in its resistless progress northward and upward vast masses of unassimilated population denser than anywhere else on earth. Here a mission field of unsurpassed richness presents itself to the Church. Children swarm in the streets like rabbits in a warren. Night and day one is confronted by the hideous spectres of prostitution, pauperism, drunkenness, crime. Materialistic habits of thought pervade the thin mental soil of the people. Alien races, often with stiff prepossessions against churches, jostle each other, Latin, Celt, Slavic, Semitic. They behold the spectacle of Protestant churches slowly dying out before their face and eyes. The growth of great ecclesiastical institutions uptown or in the suburbs makes no impression upon them. These people have a narrow horizon. They draw their conclusions from the outward appearance and from phenomena close by. They are overawed by that only which obtrudes a solid materialistic front, like a great school house, or a

massive commercial building, or gaudy saloons and theatres. The church edifices are in disrepair. The wealth has gradually leaked out of them through the removal of members uptown or to the suburbs, and their appliances for worship are correspondingly weak. This vast neglected population provides the environment and the field for the Institutional Church.

There are three courses open as regards the downtown problem. There is, first, the policy of abandonment, the Church confessing its inability to cope with the forces that converge against it, and withdrawing, little by little, from the field. It then becomes a traveling show. It forsakes just those sections of the city where it is most needed. Vast masses of people are left unchurched. There is presented the singular spectacle of Christendom sending missionaries to the heathen beyond the seas, and contemplating with indifference and hopelessness the extensive and vigorous growth of heathenism in the very vitals of its own country. We pay the traveling expenses for our best men and women to preach the Gospel to foreigners at the ends of the earth, and when these same foreigners come to us of their own accord, paying their own traveling expenses, we turn away from them with antipathy and despair. Italians have a glamor and picturesqueness in Italy, which disappears upon their arrival in America. Like their own olives, they seem to lose their flavor through transportation over sea water.

But these neglected masses in the lower wards of our city have their revenge. They are a constant menace to our distinctive American institutions. We cannot escape them. They cling to our flanks and follow us as we proceed northward on our narrow island. We catch their diseases. They have a saloon on every corner. They outvote us at our elections. A miasma stealing up from the widening social swamps infects our whole municipal life. The wise ostrich endeavors to escape her pursuers by hiding in the sand her too conspicuous head, assimilating her body to the sand dunes around her; but such an artifice will not avail with Christian churches. The difference between the Irishman and the Frenchman, according to Heine, is, that when the Irishman does not like the government he emigrates; but when the Frenchman does not like the government, he makes the government emigrate. The Church has pursued too much the Irishman's policy, fleeing from

adverse environment instead of subduing it. It is like the company of militia that enlisted with the express understanding that they were never to be taken out of the country, *unless it should be invaded*. This policy of retreat is fatal to Christianity, as in dropsy the water rises little by little until it submerges the vitals.

The second alternative is for the Church to cling indeed to the old fields downtown, assuming, however, that the methods of former generations will suffice for the requirements of to-day, instead of readjusting its gearing to the changed conditions.

"New occasions teach new duties."

The masses in New York require our very best preaching, architecture, and music. It is a mistake to try to reach them with cheap and nasty appliances. If I had my way, I would put the most beautiful churches among the homes of the poor, so that it would be only a step from the squalor of the tenement house into a new and contrasted world. The rich have beautiful objects in their homes. They should be content with plainness in church. But when we bring together the poor and the sad, let their eyes, grown dim with tears and weariness, find repose and inspiration in the exquisite arch, and the opalescent window, through which shimmer the suggestive figures of saints and martyrs. Let their ears hear only the sweetest and most ennobling music. Let everything in church be educational and uplifting. If the rich and the poor are ever to meet together for common prayer, it must be in the territory of the poor. Money and locomotion are correlative terms, like heat and motion. The rich must come where the poor are, for the poor cannot go where the rich are. The poor used to be taught to be patient under their sufferings, in hope of a blissful hereafter. But now they are waking up to the fact that the rich, in their refinement of selfishness, propose to get the better of them in both worlds, not only to monopolize the good things of this life, but also to appropriate the things that are supposed to help people heavenward, as the best preaching, and music, and architecture.

It is bad economy to concentrate our religious efforts upon the more favored classes, neglecting those who need us most. Harm comes from such an uneven distribution of the sacred privilege. It is as if a general should focus his heaviest artillery upon the weakest point in the enemy's line. The strongest medicaments of

the Gospel should be injected into the most diseased tissue of the body municipal. Here lies the true missionary spirit. The churches need to feel more of that social compunction which is the high-water mark of modern civilization; that spirit which impels cultivated people to dwell in settlements among the poor in the midst of

"The fierce confederate storm  
Of sorrow barricadoed evermore  
Within the walls of cities."

The Institutional Church seems to be the only alternative left if we propose neither to abandon the downtown fields altogether, nor to till them with antiquated implements. The Church should cling to her old fields, no matter how hopeless and repulsive her changing environment may become, and not only strongly appeal to the religious nature of the people with her time-honored methods of prayer, and praise, and preaching, but all the while wisely supplement them with a system of institutions, educational and philanthropic, through which she may touch in a helpful way man's physical, mental, and social nature as well. Her best motto is her Master's word: "These things ought ye to do and not to leave the other undone."

But what are some of the social forms in which the life of the Institutional Church will express itself? These should be determined by the character of each individual field. One will learn to study the social situation and feel his way along, like a ferry boat entering its slip. He will all the time be asking himself the question, What social need exists in my immediate neighborhood, which has been overlooked by others, and which I better than others am cut out to meet? The commonest mistake of all is to do the very thing that others are doing. Imitativeness is the besetting sin of social workers. You see some church or society conducting a successful kindergarten. You say, "I will go and do likewise." In doing so, you impair the efficiency of the kindergarten already established, and the kindergarten you project turns out a failure because the kindergarten need in that particular neighborhood is already met. A better course would be for you to send the little children under your influence to the kindergarten already existing, and apply yourself to the task of meeting some entirely different social need. I would not establish a dispensary, with all its expensive and nerve-

wearing machinery, unless I were quite sure that ample provision of this kind were not already made for the sick in my neighborhood.

The longer I live the more delight I take in co-operating with everything good that is going on anywhere near me. The Church assumes its highest efficiency by taking the humble part of an intermediary between the individual sufferer and organized relief. On the one hand you have millions of dollars invested in charitable institutions, and on the other unclassified misery ignorant of the provision made for its relief. I try to keep myself informed regarding all the endowed philanthropies of New York, and when an application for help comes to me at my office hour, I at once ask myself the question whether there is not some organized form of relief that can grapple this particular case more scientifically and efficiently than I; for I feel that the little temporary help that I am able to bestow is a small matter compared with my bringing the sufferer within reach of some organized relief, of the existence of which he was ignorant. But the law of reciprocity requires that the church which undertakes to perform this intermediary function should contribute systematically to the resources of the organizations to which it sends its applicants for relief. Such friendly co-operation between the churches and other philanthropic institutions is the only safeguard against imposition and the overlapping of benefit.

I have not found other societies reluctant to co-operate with the Church in doing good. We keep in closest relation with the Charity Organization Society, and the Association for Improving the Condition of the Poor; our relations are cordial with the churches of the other communions, the Young Men's and Young Women's Christian Associations, the Salvation Army, and Rescue Missions; we avail ourselves of the great hospitals and other charitable institutions that are not far away; we keep up friendly intercourse with the settlements in our neighborhood; the New York Kindergarten Association conducts one of the kindergartens in our building, the other one being maintained by the Board of Education of our city, which also provides in our hall a free lecture for the people once a week; we open our doors weekly to a Damrosch People's Singing Class; the Federation of Churches has a vacation school under our roof. In these and countless other ways we are

alert to emphasize the feeling of solidarity that ought to inspire all who are working together for the common good.

But while the Institutional Church will prize the opportunity of co-operating with other religious and philanthropic organizations, there will still remain much distinctive work for it to do itself. As far as our own work is concerned, of which the editor has asked me to write, besides the religious services on Sunday, every week night, Saturday included, summer and winter, and parallel with these religious services, there is something doing every night in the way of physical, mental, and social betterment, as gymnastic classes for women and girls, gymnastic classes for men, gymnastic classes for boys, boys' clubs, singing classes, sewing school, children's hour with the stereopticon and moving pictures, men's tea on Sunday nights, Young People's Literary Society, and so forth. In summer we do fresh-air work and operate five public ice-water fountains. These forms of work we have gradually adopted as meeting exigent social needs in our own individual field. Other institutions which we were almost the first on our field to establish, we have from time to time relinquished, as they have been taken up by other churches and societies, it being our aim not to overlap the activities of other workers, but rather to supply the social pabulum that is actually needed by the people about us and which is not within their immediate reach. Thus a person coming to our church any night in the week will find in one place a meeting for worship, and in other rooms, under the same roof, opportunities for mental, physical, and social recreation as well as self-development. In this way our whole building is practically occupied at all hours every day and on Sunday, and is never dark and deserted, like many of our costly sacred edifices that are in use on Sunday and perhaps one or two week nights, and the rest of the time are tenanted by mice, silence, and gloom.

In such work one soon becomes inured to small audiences. This is the difference between an  *inspirational* and an *institutional* center. In the former instance you face a large congregation once or twice a week, while in the latter you meet the same people in small groups, at close quarters, and many times during the week. The aggregation of all these gatherings will probably be much larger than the audiences which the minister has on Sunday. I submit that character is more effectively molded by frequent

touches. You cannot get an angel out of a block of marble with a stroke of the chisel once a week. Take a single narrow case. An average New York boy comes to Sunday school once a week, and presumably receives a certain impression upon the religious side of his nature. Between the Sundays those impressions are washed away from his mind by the influences of home, and street, and school; and at the end of a long course through all the grades of the Sunday school, when the proper age comes for bidding good-bye to it, as to the day school, his character is the same as at the beginning. The Sundays are too far apart efficiently and permanently to mold the child's character. But suppose every week you touch the same boy, not only on his religious side in an effective way at the Sunday School, but often and regularly between the Sundays you reach him along physical, mental, and social lines by means of a children's hour, boys' club, gymnastic classes and other recreative functions, his cynicism is gradually subdued, he comes to love and respect you, he feels that he has found a friend in you, new ideals spring up in his mind, and you are encouraged by seeing his whole spirit softened and conciliated. I would rather meet ten boys three times a week than thirty boys once a week. The principle thus narrowly stated and exemplified is applicable to the Church in its larger relations and other departments. The passion for bigness is obstructive to the truest social progress. We need to learn the pedagogic value of the little.

In all institutional work there are certain limitations that need to be considered. The Church should be true to its distinctive religious message. Social problems are so difficult and so fascinating that they easily absorb all a minister's time and energy. He neglects his study and the care of his flock. He loses his priestly character and becomes a mere social functionary. In the betterment of humanity one usually works either in the realm of motive or in the realm of environment. Some say, "Improve a man's environment and you make him a better man." Others say, "Strengthen his motives and he will conquer his environment." Both are right. We should be interested both in the improvement of environment and in strengthening character, so that it will be robust enough to subdue and assimilate even an adverse environment, as a tree toughens its fibre by wrestling with the wind. Those who are endeavoring to better environment and those whose aim is to

strengthen character through faith ought to understand each other and work together. While the Institutional Church actively sympathizes with every effort to improve social and physical conditions it cannot afford to surrender its cheerful faith that righteousness is the parent of comfort, and that through the worship of the Eternal the individual is inwardly strengthened to endure the fell clutch of circumstance. All its philanthropy will be suffused with the religious spirit. In its life the churchly will take the precedence of the institutional.

But while the chief emphasis will rest upon the religious side of the work, there can hardly be a greater mistake than the use of philanthropy as a lure to religion. Our kindness to people, in the nature of the case, inclines them to be hospitable to the spiritual message which we desire to impart. But if we are kind with such an end consciously in view, then the quality of our kindness is vitiated. We must be kind for its own sweet sake without any ulterior consideration, or else our kindness loses its essential character. Your church institutionalism must not mean being kind to people with a view to getting them to join your church. Are you kind to a horse in order to get him to join your church? Working men resent exploitation. The minister who engages in social work in order to build up his own church is doomed to disappointment. The last church which a person desires to attend is the one where he sought relief and received it. We do not like to revisit scenes of past misery. I am inclined to think that institutionalism is a handicap to church progress. We are to bend with tenderness over social sores, even when we know that such occupation may, in the immediate future, impede, rather than promote, the growth of our own church. Self-respecting people do not like to attend a church that has come among them to do them good. They prefer to go where they are needed, not where their needs are ministered unto.

Mr. Charles Booth, the great English statistician, in his recent comprehensive work on the religious condition of the poor in London, makes the suggestive remark, "If the churches, instead of demanding how can we help you, were to ask even of the poorest and the worst, how can you help us, a road might open out." His investigations seem to prove that the churches which have made most progress among the submerged tenth have been the ones that have inspired the poor with the thought that they were needed,

not as objects of charity and good will, but for what they can contribute of character and personality to the Christian cause. The distinctive note of excellence and hope in the work of Booker T. Washington is that he represents a movement that originated with the colored race itself, and did not proceed from philanthropists on the outside who proposed to better the condition of the colored people by maintaining churches and schools among them. Somehow or other, people seem instinctively to resent having good done to them, and if we are to succeed among working people we must in some way produce and promote among them the sentiment of self-help, and remove from their minds the impression that we propose to patronize them.

Our message to the working people around us should be, not, you need us, but, we need you. The good fairy type of church does not meet the requirements of modern conditions. This is one of the dangers to be guarded against in church endowment. An ecclesiastical establishment, however magnificent its equipment, and imposing its service, can never really grip the people, unless they feel a sense of responsibility and ownership. Churches in which the gifts of the worshipers are not needed for the support of the worship, but are applied to missions outside, tend to produce a breed of ecclesiastical paupers.

We must constantly be on our guard lest we make the impression on the community that we exist simply to minister to its needs, and are ourselves independent of its sympathy and help. Otherwise we shall repel from us the very people who would form the best elements in a self-supporting church, and will magnetize and attract to our embrace worthless people in whom the religious instinct is rudimentary, and whose desires never rise higher than the loaves and fishes. The tendency is to produce hypocrites and ingrates.

No church that hoists the flag of relief has resources adequate to the clamorous requirements of poverty in a great town, hence bitter disappointment ensues. The applicants for relief feel that somehow they have been deceived. They have asked for bread and have been given a stone. The Church has encouraged them to think that they were to get employment, food, clothes, social recognition, and instead offers them the white fragrant flower of religion.

Working people, in order to be drawn into the churches, must

be made to feel that they are needed there. People lose their interest when they come to feel that they are mere ballast. They are not attracted by expensive establishments in which they feel that their small gifts are of little account. It is not that they do not enjoy beautiful things, but they suspect that they are wanted merely to fill the pews, in order to gratify the minister, and a few rich men, and they decline to be put to that use. They refuse to be mere passengers. No one depends upon them. It gradually dawns upon them that they are like a child in a perambulator, who seems to be driving a horse, but is being guided and propelled by a stalwart nurse from behind. It seems to them that the Church can get along without them. They are not hostile, nor even indifferent. They like to attend little wooden churches where their contributions count.

In this discussion of the Church in its social aspect, I seem to have indicated a steep and thorny path. The local church finds itself sometimes in an unresponsive and even hostile environment. This social phenomenon is apt to occur in the lower congested sections of our great town. The Church under this pressure tends to *institutionalize*. It supplements its ordinary methods with a system of social, educational, and philanthropic institutions with a view to conciliating the community in which it finds itself. These efforts are not directly and immediately promotive of the growth of the Church, but may even impede that growth, weaker natures being attracted by the prospect of social advantage, and stronger spirits desiring to go where they can do good, instead of having good done to them. Such an altruistic spirit, however, on the part of the Church carried on in a wholesale and systematic manner, and persisted in long enough, might in the end remove prejudices existing in certain minds against Christianity. But one would have to live long to enjoy a personal experience of such climatic changes. The Church is a means, not an end. The important thing, after all is not the building up of a church, but the Christianization of the community.

## THE CHURCH AND THE WORKING MAN

BY JOSEPH WILSON COCHRAN, D.D.,  
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The "alienation of the masses" from the Christian Church, the arraying of its power upon the side of the moneyed interests, and its consequent failure as a solvent of the social problems of the age, are now commonplace utterances in the mouths of the majority of the public champions of labor. Many such are earnest men and women who sincerely wish it were otherwise, some of whom are looking for the day when the Church will actively espouse the cause of the laboring man, while others claim to despair of receiving light or hope from that quarter as long as "her members are mammon worshipers or hypocrites or both, her clergy professional posers, whose words are for sale and whose slightest tendencies to free speech are muzzled by the millionaire bondholder who looms large in the front pew."

No lover of his kind should treat lightly such a situation, in so far as it is found to be true. That there should be hatred or at least misunderstanding between organized religion and organized labor should furnish ground for profoundest regret if not the deepest shame. Which party is to blame? What are the causes operating against harmony between the man who with "the temple of the Holy Spirit" earns his daily wage, and those spiritual forces which should inspire him to best endeavor and lead him and his loved ones out into "the liberty of the Children of God"?

If this alienation be radical, we should seek the cause either in the fundamental teachings of religion or in the principles of organized labor. Let us survey briefly the attitude to the cause of labor of that charter under which the modern Church claims to operate—the Bible.

There is scarcely a book of the sixty-six that does not appear to be written from the viewpoint of the people. Men of the soil, the tool and the workbench have a large place in the record. We

hear the hard breathing of men who mingle the struggle for righteousness with the struggle for daily bread. From the industrial preamble of Genesis, "in the sweat of man's face shall he eat bread," to the pronouncement of the Apostle Paul to Timothy, that if a man provide not for his own he is worse than an infidel, we find the principles and problems of labor set forth with blood-earnestness, and the force of moral conviction. Joseph's success in saving Egypt from economic ruin, in Gen. 41, might well be taken to heart by those who handle the world's food supply. We find the first recorded industrial revolution in Exodus, where the oppressed Israelites, under Moses, the greatest labor leader ever born, struck against the oppression of Rameses II, and "walked out" of the bitter bondage of making bricks without straw. Israel's judges were not ermined dignitaries dispensing law from the soft woolsack, but horny-handed, sunburned giants from the furrow and the sheep-trimmed hills. The prophets were men of the people who, clad in camel's hair, broke in upon the luxuries and tyrannies of king or class with terrific denunciation. The pictures of Nathan arraigning David for his murder of Uriah, and of Elijah facing Ahab with his bloody robbery of a poor man's vineyard, should thrill every toiler restive under the aggressions of class privilege. The utterances only of those prophets have survived who were true to their times. Such a man was Ezekiel, who found Church and State leagued against the people. "There is a conspiracy of her prophets—they have taken the treasure and precious things." "Her priests have violated my law—her princes are like wolves ravening the prey, to shed blood and to destroy souls, to get dishonest gain." The prophets were not content with denunciation or with feeble calling of men to worship regardless of personal character. Hosea's message is characteristic: "I desired mercy and not sacrifice." They refused, on the other hand, to launch an economic program of eternal welfare, laying at the foundation of society those moral principles and spiritual motives without which the cleverest social and economic systems are but houses built on shifting sand.

The founder of Christianity was a carpenter. His hand was roughened by the tool and his feet trod the highway of the multitude. His parables dealt with the common experiences of the field, the home, the market-place. His companions were working folk.

His message was entrusted to fishermen and trades-people. A tent-maker proved to be the greatest organizer of His mission. He was the first world teacher to recognize the rights of the child and the potential manhood in the criminal. While organizing the hope of immortality into definite assurance, he brought Heaven down into daily living. "The Kingdom of God is within you." The Hereafter became henceforth the *Here and Now*. "Thy Kingdom come"—where and when?—"Thy will be done *on earth as it is in Heaven*." Not to men as they are to be, but to men as they are,—in the home, the field, the shop; to parent and child, employer and employed, teacher and student, friend and neighbor—He appealed. His message was based upon the assumption that if there be no heaven in the present life, there is none for the future. If men cannot live on terms of justice and fraternalism in the flesh, they never can in the spirit. If there be no angel in the man as he is to-day, death can discover none such in the Hereafter.

Such is the Bible. As long as the Christian Church builds upon it as her "Impregnable Rock," so long must she uphold the dignity and moral rights of labor. It is the only charter of social rights that has survived the ages as a living word to men of to-day. Surely there is hope in this fact.

Does the fault lie in the past of the Church? What of the history of Christianity as a legitimate social factor?

Christianity was introduced into the world at a time when the efforts of ancient civilizations had crystallized into absolute fixity of social conditions, whereby, under the caste system and through the ascendancy of militarism, the lines of cleavage between patrician and plebeian were widened into impassable gulfs. The slave was on friendly terms with his master simply because his wants were few and assured. There was little struggle for bread, no struggle for rights. The only hatreds were political. Social ferment was impossible. The serf brought up his children to look forward to serfdom. It was what Carlyle calls "the brass collar period." One of the miracles of history is that this "religion of slaves," with its doctrines of human equality, fraternalism, the worth of the individual, and the power of moral and spiritual ideals, should have gained foothold during the Age of Might. "Keep to your ignorance," said Emperor Julian, "Eloquence is ours, the followers of the Nazarene have no right to intelligence." Yet the faith spread

in spite of persecution, permeating stratum after stratum of society, until, at the disintegration of Rome, it had entered palaces and claimed the fealty of emperors.

Now came the period of the Church's spiritual decline. Gaining wealth and temporal power, she joined hands with the State, keeping the people content through elaborate ceremonial and inspiring them with fear through her excommunications. During this Age of Authority, the Church maintained her hold on the people, who sought sanctuary within her gorgeous temples, and brought their riches to her feet as those who deck a corpse. The Church survived the period of stagnation and degeneracy without having lost the people, because they had not yet come to self-consciousness. They were yet to win their *Magna Charta*.

But coincident with the intellectual awakening of the sixteenth century came the Renaissance of morals and the struggle for religious freedom. The Church, purged of corruptions and limited in temporal authority, began to lead in the triumphs of a new era flowering in art, literature, invention and the establishment of popular rights. Thus the line of human progress has run, sometimes above, sometimes below, the organized religion of every age, but never far from it. Historians fail to record any serious breach between the Church and the working man until the dawn of the present industrial era. The Reformation, the Puritan movement, and many another moral and spiritual revival, have kept the Church measurably free from hardening into traditional molds and the conventions of a specifically privileged class.

Until the dawn of the present industrial era labor had not become segregated into a movement, had never stood before the bench and on the forum and at the ballot box with a program and a definite demand. Individual life is short, and the working man must have his answer quickly. He is not concerned with the past or the remote future, but with the living now! He requires speedy adjustment of institutions which have taken centuries to ripen. The economic and political worlds stand aghast. The Church likewise, living in an atmosphere apart from the crash of machinery and now taxed with the framing of a program adjusted to the changing order, fails to answer to the satisfaction of the working man. It could not well be otherwise. Institutions do not readily yield to the pressure of readjustment.

Meantime a number of superficial and inadequate answers are being made by current Christianity to the appeal of industrialism. One is the *answer of indifferentism*. It is considered a mark of good churchmanship in certain quarters to ignore the fact and power of the working man's movement, to deny the existence of "the lapsed masses," and to treat with contempt their criticisms of the Church. While arranging a program for a conference of Christian workers some time ago, I suggested to the committee that "Church and Labor" should be represented, but was opposed by a prominent lawyer, who declared that the Church recognizes no class distinctions. "Besides," he said, "I am a working man. We are all working people. Why dignify any special class?" He carried his point.

The Boston *Congregationalist* thinks "there is too much talk about the Church's relation to the labor problem, as though Christianity had a peculiar mission to those who labor without having their money employed in the work they are doing." This echoes Phillips Brooks, who once said, "I like working men very much and care for their good, but I have nothing distinct or separate to say to them about religion; nor do I see how it will do any good to treat them as a separate class in this matter in which their needs and duties are just like other men's."

But such blinking by the Church of her social mission will not avail. A published statement by a minister contains this proposition: "The labor movement is a class movement and the union a class organization, while the Church stands for the abolition of all class distinctions, and would cease to be a church the instant it sided with the union." All of which is true enough, but the present unfortunate misunderstanding is not due in any wise to the desire of organized labor to receive such official recognition as that the Church shall "side with the union." As a matter of fact, scarcely twenty-five per cent of the working class of this country belong to labor unions. Besides, the peculiar sensitiveness of churchmen toward the recognition of "a class" has been a trifle overworked. The Church in her missionary and philanthropic work has always recognized classes, following out Paul's principle, "if by any means I may save some." The needs and sins of special classes were recognized by Jesus. He pointed out to the class "Pharisee" the baseness of hypocrisy, to the class "Publican" the evils of extor-

tion, and to the class "rich man" the difficulty of keeping his soul free from the canker of the lust for wealth.

By noting lines of cleavage between class and class, by recognizing with sure and sensitive touch those factors entering into men's lives that make for separation, hatred and oppression, the coming Christianity shall be able to inspire a common enthusiasm for humanity and fuse into one brotherhood through sacrifice and service the manifold hopes and aspirations of the race.

Then again we hear *the answer of preoccupation*. The average clergyman is by no means an idler. His time is occupied in the absorbing cares of parish ministrations or pulpit preparation. He has been forced to become a business manager. His work is to "fill pews," "add to the membership," build up a strong church. Financial and ecclesiastical matters come first. The denomination expects him to work upon the theory, latent but imperious, that society must help the Church. A Roman Catholic priest is quoted as saying: "We are all busy administering the sacraments, teaching the commandments, and not doing anything to see that the commandments are being observed." The Archbishop of Canterbury said recently that he worked seventeen hours a day and had no time left to form an opinion as to the solution of the problem of the unemployed. To which Mr. Keir Hardie replied that "a religion which demands seventeen hours a day for organization, and leaves no time for a single thought about starving and despairing men, women and children, has no message for this age."

Yet another answer of the modern Church is that of *ethical timidity*. It is idle for the Church to spend millions in foreign lands while shrinking from the practical application of her doctrines in the destitute places of civilization. The slum is an outstanding indictment against the seriousness and sincerity of the Church's message to the age. Fearless leaders have learned of late years to detect the false ring in much of the demand for "a simple Gospel" that with eye and ear oblivious to the blood oozing from between the cogs of our machine-made civilization, and the cries of the under-fed and over-worked, points to the skies as the only solace for the world-weary refugee from the present social disorder. Subscription to a formal creed, and support of and attendance upon the Church ought not necessarily to insure "good and regular standing." The oppressor of his fellow men through the

abuse of corporate power ought not be regarded more leniently by the Church of Christ than by the Government of the United States. There are many men judged guilty of criminal practices by our law courts who walk in and out of the courts of the Lord proudly confident of their ability to procure at least a Sabbath day's "immunity bath."

The Church has been wont to glory altogether too much in her charitable institutions, leaving the roots of poverty and crime untouched. What would be thought of a physician who contented himself with administering anodynes to his suffering patients? We may not need at present fewer orphanages and poor homes, but when the Christian conscience attacks the roots rather than the branches of social disease, we shall have far less need for such.

What if the Christian Church should seriously address herself to bridging the gulf! It is not so much a question of economic adjustment as it is one of justice, fraternalism, human sympathy. Has the Christian employer done his best to deal on terms of equity, honor and kindness with his employees? Has he been willing to lose money on the experiment? He has made a spurt by putting in a reading room or giving a turkey at Christmas. But some instance of ingratitude or imposition has furnished him a pretext for abandoning the "sentimental method," and return to the old system of armed neutrality. "I've tried it," said a church elder to me, "but it won't work. You have to treat them like animals and show no mercy, or they will override you." But has the occasional employer, who has bent his energies to the uplifting of his employees for five or ten years through ridicule, skepticism and ingratitude, ever failed of his reward? Is it not possible that the Sermon on the Mount has never had a real trial in industrial relations? "Christianity has not been a failure," says one, "because it has never yet been tried." I once attempted to secure a permit to go through a glass factory, the owners of which were prominent church members and supporters of a splendid settlement work near by, but was gruffly refused on the ground of the child labor agitation then in progress. I satisfied myself of conditions by watching the little black gnomes emerging from the glare of the furnaces, lads with pinched, flushed faces and slouchy gait, almost literally staggering under the pressure of the unnatural work and long hours upon plastic bodies, and I wondered whether if these em-

ployers were to spend their church and settlement money on an increase in wages so that the families of these boys could afford to send them to school, it would not be a more practical form of Christianity. The world will not be satisfied with the sincerity of our religious professions until we attack the causes of poverty and disease with the same enthusiasm and persistency that we palliate the symptoms. Almsgiving is ever easier than justice. It is less disturbing for the employer to send his check to some charitable institution than devise equitable conditions for his operatives.

It has not hitherto been a legitimate field for the Christian publicist to insist on such a material panacea as justice in the wage scale. But why stop at the loose proclamation of a principle? The Christian conscience has made itself felt of late in a mighty demand for righteousness in politics. Why not demand in the same way justice in the industrial world? Has not an inequitable factory and mill and department store wage scale directly produced immoral conditions. Ask the matrons of the maternity homes and Magdalene retreats in the mill districts and the great retail centers. Twenty-seven years ago Joseph Cook spoke these brave words before an audience of professional people: "Advocating no socialistic proposition and defending no communistic dream, I yet believe the day will come when the cost of its production will determine the pay of labor. The cost of production includes the support of a family. We cannot give the State the strength of its citizens on any rule that starves men. We cannot produce a skilled class unless we bring our children up well. Unless we have a certain regard for skill as well as the mill, the mill itself will be without skilled operatives. In time there cannot be a fit laboring class provided unless you give such wages as will enable an average head of a family to put among his expenses school books, newspapers, and religion. There must be somewhere a lifting of the income of the lowest paid class of laborers; otherwise we shall have monstrosity after monstrosity and the heart of girlhood wrung until the gutters are full of muddy slime. My theme is, in short, justice as an antidote to the dreams of political heretics. Until justice is held up as a broad shield against the darts of all insane communists and infuriated socialists we shall be pierced again and again with arrows."

The Church can never espouse this or that scheme for the  
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regeneration of society. It can never endorse a special program for labor any more than a program for capital. Heaven spare us from much of the misdirected effort and exaggerated statement passing off into space these days as Christian Socialism. Professor Shailer Matthews, in making his assertion that no man's teaching has equaled that of Christ's in the magnitude of its social results, speaks of those "modern prophets to a degenerate Church who in sublime indifference to the context, time of authorship, and purpose of a New Testament book . . . have set forth as the word of Christianity views which are but bescriptured social denunciation and vehemence." Nevertheless, the Christian pulpit can, and I am confident in the coming days will, lay the axe at the root of the tree and require an actual demonstration on the part of each Christian of his real value to society. Ruskin has a word in this connection: "Let the clergyman only apply—with impartial and level sweep—to his congregation the great pastoral order: 'The man that will not work, neither shall he eat . . .' and he will find an entirely new view of life and its sacraments open upon him and them." But more than this, let the spiritual leadership of the age require of the membership the same zest and snap and eagerness in the application of the Golden Rule to their daily living that the non-Christian manifests in violating it. The erection of the ethical test to the same position of importance as is enjoyed by the creedal test would make the Church of to-day irresistible in the mutualization of human interests, and marvelously hasten the dawning of days

"—of brotherhood, and joy and peace,  
Of days when jealousies and hate shall cease,  
When war shall die, and man's progressive mind  
Soar as unfettered as its God designed."

Lastly, the answer of the Church has been *the answer of suspicion*, due to failure to grasp the tragedy of the struggle now going on.

Religious leaders have been slow to appreciate the fact that the working man is deserving of sympathy because he has been the sufferer in every phase of the industrial revolution. The introduction of labor-saving machines by which the product has been vastly increased has inured almost exclusively to the interests of the

employer. Labor has painfully adjusted itself to the new conditions, entire trades having been wiped out of existence through the process. The employer and not the employee has been in the position to invoke the aid of the state in the framing of industrial legislation and the throttling of remedial measures. Both England and America could fill a chamber of horrors with the wretched results of a half century of unchecked industrial slavery. It is only of late years that both continents have become aroused to the shame of it, and attempted to wipe out the disgrace of one-sided legislation. Again, the specialization of labor by which factory and mill hands operate single machines, reducing them to the position of mechanical slaves, knowing no trade except the accustoming of certain muscles to a few movements, produces a degrading effect upon manhood and womanhood. In other days the workman owned his own tools. To-day he is one. Part of a vast machine, he sinks under the benumbing and stupefying influence of the system. It is little wonder he talks excitedly and grasps at socialistic straws after he has wiped the grime from his face and walked the kinks out of his back. It is not astonishing that he is willing to join almost anything promising outlook for the bettering of his daily lot, instead of standing apart in superior indifference or suspicion. The Christian conscience of the day should note the tragic effort of those who serve us with their hands to combine for protection. Whether they be striving against economic principles or industrial methods, the fact is, men and women are sad, wretched and full of bitterness. Would Christ have no vital message to such? Says Bishop Potter: "Until you and I have stood where He has stood, until those who are not working men and women can realize the grim danger that stares them in the face as they are held in the grip of some huge mechanism of capital and machinery, until we can understand what it is to work or to stand idle, not as the impulse to labor or the needs of their families demand, but as the whim of the employer or the condition of the market, bare to-day and glutted to-morrow, shall decide, we are in no condition adequately to appreciate that stern necessity out of which the trades union has grown."

With all the justifiable distrust which trades unionism has engendered in the minds of people, due to acts of violence, repudiated contracts and revolutionary doctrines, it represents the cause

of labor at its best as well as in some of its worst aspects, and deserves to be understood by all those who profess to have the cause of the under-man at heart. A quarter century ago labor unions were supposed to be mere culture beds for socialistic and anarchistic theories. Secret signs, grips and pass-words were then in use. The American working man has repudiated the waving of the red flag, and the chief hope of the revolutionary propaganda lies in the tremendous tides of foreign immigration to our shores. Here is the grave danger. Through stormy seas the cause of labor has plowed, and weathered many a gale raised by demagogical leaders or infuriated capitalists. After a quarter of a century the worst features of the labor movement have been fully exploited, and now the time has arrived for the spiritual leadership of the day to seek out and encourage the best elements of labor's struggle for the new day.

Let us now inquire how far trades unionism is antagonistic to organized religion. It is true that the overwhelming proportion of working men in the cities is entirely out of touch with the churches. But the atheistic bearings of socialism have not met the sympathy of the mass of those infected by even the wildest economic theories. It is well known that working men will hiss the Church at one moment and applaud the Christ the next. They will willingly admit the truth of Christian principles, and claim their struggle to be a religious one at the core.

The preaching in shop meetings of the principles of justice, love, and the worth of the individual, is listened to with respect and often greeted with applause. A minister, after attending a Central Labor Union meeting and in courteous fashion pointing out where the methods of the union violated the principles of Christ, expressed surprise that his remarks met with evidences of approval, to which a big bluff blacksmith replied: "You see, we ain't used to having it handed to us on a silver platter! we generally get it between the eyes in big chunks." Having addressed working men week after week in noon-day shop meetings for years, I find them to be courteous in their treatment, though at first somewhat distant and suspicious, and responding to the Gospel as applied to daily living with as much, if not more, readiness than attendants upon more formal services.

The avowed principles of trades unionism are, according to

John Mitchell: First, the right of association; second, the policy of a living wage earned under fair conditions; third, free speech, self-government, and the dignity of the working man; fourth, mutual esteem and co-operation of capitalist and wage-earner; fifth, far-seeing, open-minded, democratic conduct of industry. It is well, however, to recognize the two trends within the labor movement, one toward co-operation and the other toward conflict. There is certainly a sinister aspect to the problem, the fact that imported and radical socialistic doctrines are rapidly permeating our industrial centers where foreigners congregate. American agitators, quick to learn the catch-words of Continental theories and saturated with the wormwood and gall dripping from the pages of such men as Marx, LaSalle, Bakunin, Haeckel and Nietzsche, are playing cunningly upon the popular discontent, arraying class against class in what they hope will prove an irrepressible conflict. A desperate attempt is now being made to capture the labor movement for extreme socialism. Foreign names predominate among the leaders. While other industrial organizations have been based on the belief that the interests of capital and labor are mutual and can in the end be harmonized, there are probably sixty thousand men and women organized under a constitution, adopted in 1905, a portion of whose preamble reads thus:<sup>1</sup> "The working class and the employing class have nothing in common . . . between these two classes a struggle must go on until all the toilers come together on the political as well as on the industrial field, *and take and hold that which they produce by their labor.*" . . . The ritual of this organization provides that the preamble shall be read at the opening of every meeting, and that the following questions shall be propounded to every new member:

"Do you realize that the working class, who produce all wealth, have nothing, and the capitalist class, who do not produce, have everything?

"Do you agree that the working class and the capitalist class have nothing in common?

"Do you agree, therefore, that labor is entitled to all it produces?

"Do you realize that between these two classes a constant struggle is going on?

<sup>1</sup>*Proceedings of Industrial Workers of the World, 1905, p. 247.*

"Do you realize that this fight can only end when capitalization is abolished?"

The intent of this old movement under a new and dangerous guise (because it is the first attempt of the socialists in this country to organize a purely industrial movement) is to produce a "class-conscious" hatred of employer by employee. It is calculated to engender a despair of efforts directed toward harmonizing the differences between capital and labor. Officers of organized labor, such as Powderly, Mitchell and Gompers, are called traitors and accused of betraying the cause into capitalistic hands. The words by which the promoters characterize themselves are "revolutionist," "rebel," and "slave."

Their attitude to Church and State is reflected in the following extracts from speeches delivered at recent conventions. Speaking of faith in the ballot box, "It involves a repetition of the methods of the Christian Church, which raises a magnificent ideal in the remote future to be arrived at some time sooner or later, and in the meantime practices all possible wrong."<sup>2</sup> (Applause.) Speaking of craft unionism as opposed to industrial unionism: "It can well be lined up with the Church and brothel, police powers and peace powers; in fact, all of those things which we look upon as necessary for capitalistic stability."<sup>3</sup>

Shocking, is it not? But why more so than the revelations of corporate highway robbery and political debauchery filling the columns of the daily press, due to the following out of the economic doctrine of "enlightened self-interest"? Why should warfare on society be tolerated in one instance and denounced in the other. If President Roosevelt is sufficiently fearless to class both a railroad magnate and a labor agitator as undesirable citizens, why should the collective Christian conscience as represented in the Church be less so? There can be but one answer—because she is afraid to face the world "without purse or scrip," clad only in the apostolic garments of justice, faith and love. She has tried on the armor of Saul and is loath to lay it aside for the sling that shall slay Goliath.

Meanwhile, the working man who has brains and heart to lead his fellows, stands toward the Church in expectant attitude. The violent anti-Christian crusade of Platchford in England, and the

<sup>2</sup>Chicago Convention Proceedings, I. W. W., 1905, p. 226.

<sup>3</sup>Ibid., p. 137.

similar efforts of the "Industrial Workers" in this country, are not typical, the feeling among the toiling millions being better expressed by such a leader as the English Lansbury: "I often ask working men not to judge Christianity by its modern forms, but to judge it for what it really is. If it stands, as I hold it does, for the bettering of men and women, then those of us who think so, must stand together, and, in spite of all opposition, must make the Church again the Church of the people."

The past decade has witnessed a really remarkable arousal of the Christian conscience in behalf of the toiler. General Booth years ago blazed a way that has been followed by more formal methods. Wilson Carlile, of London, the head of the Church Army, is conducting a marvelous work for the unemployed throughout England, and following the notably successful efforts of the lamented Hugh Price Hughes, People's Churches have sprung up in almost every city and town of the United Kingdom. In our own land the strong, clear voices of such men as Father Ducey, the Reverends Washington Gladden, Charles Stelzle, Graham Taylor, W. D. P. Bliss, Alexander F. Irvine and others are speaking conviction to the hearts of many hearers. A Church Association for the Advancement of the Interests of Labor has been developed by the Protestant Episcopal communion, and a Department of Labor has been organized by the Presbyterian Board of Home Missions. The monster labor meeting on Sunday afternoon in connection with the meeting of the Presbyterian General Assembly, at Columbus, Ohio, last May, when seven thousand persons, mostly working men, filled Memorial Hall, the expenses of the meeting being defrayed by the local labor unions, was a practical demonstration of the great opportunity before the Church. Labor Sunday, the Sunday before Labor Day, is now an institution in hundreds of churches. Labor sermons are printed in the daily press and in many labor organs. Central Labor Unions meet at their halls and march thence in bodies to the churches. Mr. Stelzle, for the Presbyterian Department of Church and Labor, himself a member of a union, recently organized a sixty-day campaign of which this is the record: Four hundred shops entered, five hundred preachers enlisted in the work, one thousand meetings held, fifty thousand gospels distributed, one hundred and fifty thousand pamphlets circulated, and two hundred thousand working men addressed.

To radical Christian Socialists this is a mere "coquetting with labor." They must have a great social program at once, with congresses and swelling deliverances. As Mr. Bliss says: "Let the Church show that our evils to-day spring from the foundation of our American economic life in the basing of industry upon the strife of individuals." This recalls the remark of Theodore Parker: "The trouble is I am in a hurry and God is not."

But what a campaign of education is necessary before the day break! What need of Savonarola-like utterance in our strong pulpits, where prophets stand forth as in old days, fearless of those exquisite tortures that the powerful know right well how to inflict! What need of carrying the lamp of truth into the mine and shop and mill, teaching men the futility of strife in any effort for betterment, and the omnipotence of co-operation, arbitration and fraternalism! What need of showing the folly of making hearts happier by economics divorced from personal righteousness, and the necessity of interaction between character and environment! What need of patience, charity, and a passion for mutual understanding in this time of most momentous adjustment between man and his surroundings! Shall we who love the Church of Christ assist or retard the birth of the new era? A testing more serious and searching than ever in her history is before her. Through the inherent vitality of truth she shall live. She shall cast out the old leaven and henceforth, living not for herself, but for the Kingdom, bring about that divine order of human society in which all shall be members of God's family, all life shall be the practice of religion, all workers shall be worshipers, all labor a sacrament, all earth a heaven.

PRESBYTERIAN DEPARTMENT OF CHURCH  
AND LABOR

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BY REV. CHARLES STELZLE, *Superintendent*,  
New York City.

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Fully six times as many men in the labor unions of this country are not touched by the churches as are in all of the Presbyterian churches combined. Add to these the masses of non-unionists not in the Church and one will get some idea of the field in which the Department of Church and Labor is operating. Practically every immigrant is a working man. At any rate, he is in the working man class, using that term in the popular sense. Hence, the whole problem of the immigrant, social and religious, comes within the scope of the department, so far as the practical, every-day side of the question is concerned.

Socialism must be reckoned with by the Church. There are to-day nearly nine million socialist voters throughout the world. In our own country the gain by this party during the four years preceding the late Presidential election was sevenfold. If the increase during the next eight years is in the same ratio, the Socialists will elect a President of the United States. Whatever one may think of the economic value of Socialism or the probability of its success as a political party, this fact remains—Socialism has become to thousands of working men a substitute for the Church. Already in several of our American cities Socialist "Sunday-schools" and "preaching services" are being held, conducted in some instances by deposed or discontented ministers and priests. They have adopted the vocabulary of the Church. They are insisting that Jesus Christ was a Socialist, and that they more nearly represent the teachings of Jesus Christ than does Christianity so-called.

These, then, are some of the problems that confront us as a Church and as a nation. The labor question is fundamentally a moral and a religious question. It will never be settled upon any other basis. Therefore, the Church has a most important part in the solution of this world-problem. And because it is a world-

problem, it must be studied in the most comprehensive manner. No little two by four scheme will solve this question.

It is the aim of the department to make it the best informed office in the world on the subjects which it is studying. Into it comes, with almost every mail, from various and world-wide sources, the latest and most exact information affecting every phase of the working man problem, as it concerns the Church. Out of it goes, with even more frequency, by mail, messenger, telephone and telegram, the carefully digested and systematically tabulated information, to pastor and to Christian worker, to student and to teacher. There is a science in business—the result of co-ordinated experience. There should be a science of city missions. Christian workers should be spared the humiliation of blundering experiment. At the service of every minister and every member of the Presbyterian Church, and absolutely without charge, this phase of our work should become of increasing value to the whole Church.

So that both the Church and labor may see each other with clearer vision, the plan of the exchange of fraternal delegates between Ministers' Associations and Central Labor Unions has been adopted. The fraternal delegate goes unpledged to secrecy. He does not have the privilege of voting, but he has the right of the floor on all occasions. In some instances the labor unions have created the office of chaplain for the ministers, and the regular meetings are opened with prayer. Working together, the Ministers' Association and the Central Labor Union may bring about many municipal reforms. Indeed, united, there are few things in this direction which they may not accomplish in the cause of good citizenship, independent of partisan politics. Especially in those matters which involve moral issues—such as the saloon, gambling, the social evil, Sunday work, child labor, sanitary conditions in tenement houses and factories, and everything else that influences the moral life of the community—may these organizations co-operate. In operation in about one hundred cities, the plan is spreading from town to town, until it is hoped that it will become effective in the six hundred cities of our country that support Central Labor Unions and Ministers' Associations. The practical result of this plan has been that there is a more cordial relationship between working men and the Church; first, because the

minister has a broader conception of what the labor movement stands for, and, second, because the labor leader has come to know something of the mission of the Church.

The department has just inaugurated a correspondence course in applied Christianity to meet the needs of ministers who are in difficult fields, especially in industrial centers.

There are over three hundred labor papers printed in this country. The influence of the labor press can hardly be overestimated. As a noted sociological writer recently declared, "The average working man reads his labor paper as the early Christian read his New Testament." Read by millions of working men who are eager for information affecting their interests, these molderers of the laborer's opinion are leading on the great mass of men for good or ill. A press bureau, furnishing labor papers with original articles which present our viewpoint of the labor question, and discussing the working man's relation to the Church, is a part of the general plan of our department. In this way we have been speaking weekly to nearly three million trades unionists and their families, thus making an audience of at least ten millions.

Every leaflet sent out by the department has been printed in this series. It has been an inexpensive way of getting information to the working men. If the Board of Home Missions were compelled to print in leaflet form the matter which is being sent to the labor press, and to pay the mail and express charges which would be necessary in order to send it to our workers, it would cost the board more each week than it costs to run the entire department for a whole year. We are sending more literature to the unchurched working men of the United States through these syndicate articles than is being sent out to the same class by all of the tract societies in the United States combined. There are about sixty such organizations. A labor leader of national reputation recently said that the influence of these articles has been such as to completely change the attitude of the labor press toward the Church.

In 1905 the Presbyterian General Assembly passed the following resolution:

"Appreciating the increasing importance of the industrial problem, and realizing that the labor question is fundamentally a moral and a religious question, and that it will never be settled upon any other basis, we recommend that the Presbyterial Home Mission Committees appoint sub-committees

for the purpose of making a systematic study of the entire problem in their respective localities. These committees shall co-operate with the newly-organized working men's department of the Board of Home Missions, thus establishing, in connection with the organized Presbyterianism of every city in America, a board of experts, who may be able to inform the churches with respect to the aims of organized labor, and to inform the workingmen concerning the mission of the Church. These committees shall also assist in the already successfully inaugurated plan of securing for the churches fraternal relationships with workingmen in their organizations; become responsible for the distribution of the literature issued by the board both for the membership of the Church and for the great mass of working men outside of the Church, and to push aggressively whatever methods may bring about a more cordial relationship between the Church and labor."

In accordance with this resolution, the department has in practically every large city of the United States special committees which represent it in the study of local problems. One of the newer features of the work of the department is the directing of great shop campaigns at the noon hour. During the past year the department directed campaigns in six cities, during sixty days, entering 400 shops, enlisting 500 preachers, conducting 1,000 meetings, distributing 50,000 gospels, circulating 150,000 special programs and speaking to 200,000 working men.

Visiting cities requesting his services, the superintendent devotes himself largely to work in the field. Addressing the churches, men's clubs, missionary societies, young people's organizations, conferences, etc., he presents those phases of the work which seem to be most essential, and when it is desired he assists in the organization of definite lines of work which may be helpful in the community. Courses of lectures covering the question of the Church's relation to working men, and kindred subjects, are given to the students in theological seminaries, thus establishing a "traveling chair of Christian Sociology."

Labor unions are visited, mass meetings for working men are addressed in the churches, halls and theatres, the audience sometimes numbering from one thousand to ten thousand, and in every way possible efforts are made in local fields to bring the Church and the working man into closer fellowship. Conferences are also arranged for employers and employees for the discussion of industrial problems.

The pastors of the eleven thousand Presbyterian churches in  
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the United States are requested by the department each year to discuss some phase of the labor question on the Sunday preceding Labor Day. It is believed that just as Memorial Day and the several "Birthdays" show our appreciation of those who rendered patriotic service, and just as the Church's "Holy Days" do honor to those who have served mankind spiritually, so "Labor Sunday" should be observed by the churches in honor of the millions of toilers who daily serve mankind in the humbler places of life. This plan has the hearty endorsement of the leading central labor bodies of the country and of practically the entire labor press. Literature in the form of leaflets is largely employed, something like forty titles now being used both for the Church and for working men.

The following resolution, adopted by the American Federation of Labor, will indicate how this movement has been received by the highest court of organized working men:

"WHEREAS, The Presbyterian Church in the United States of America, at its last national convention, officially established a Department of Church and Labor for the express purpose of making a systematic study of the labor problem; and

"WHEREAS, It is part of the plan of the department to appoint in every industrial center special committees that may become experts in their knowledge of every phase of the labor movement, so that they may inform the churches with respect to the aims of organized labor; therefore be it

"Resolved, That the American Federation of Labor, in convention assembled, indorse this new and significant movement in the Presbyterian Church; and we further recommend that central labor bodies co-operate with this department and with its sub-committees in every way that may be consistent, in order that the Church and the public at large may have a more intelligent conception of the conditions and aspirations of the toilers.

"Resolved, That the American Federation of Labor recommends that all affiliated State and central bodies exchange fraternal delegates with the various State and city ministerial associations, wherever practicable, thus insuring a better understanding on the part of the Church and the clergy of the aims and objects of the labor union movement of America."

## MODERN PRINCIPLES OF FOREIGN MISSIONS

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A new day has dawned in the work of the Church at home. There was a time, and not so very many years ago either, when the aim of the minister was the saving of individuals from sin here and from the danger of eternal suffering yonder. His work was frankly individualistic and comparatively little attention was paid to efforts for the betterment of material conditions or the enrichment of life. Patience, not progress, was the watchword. Now, however, it is recognized that the Church and Christians have duties other than those formerly emphasized. There has come a vision of brotherhood, and the great truth now stands out in almost startling clearness that men must rise or fall together, that the great social forces, which often prevent men from full self-realization, must be transformed until they secure for all men the fullest, richest life. The Church cannot rest content if it maintains its regular meetings for worship, or even if it retains its membership without diminution by death or withdrawal, unless at the same time it is reaching out for those without interest in spiritual things. It cannot permit conditions to prevail which condemn children to lives of ignorance or vice. It must be an influence for the infusion into all the life around it of new qualities of aspiration and achievement. It must affect vitally the whole community and be an integral part of the social life around it.

What has been the influence of this change of purpose and method at home upon the work of the Church abroad? We might rather ask the question, What has been the part played by work abroad in changing the spirit of that in the home land? Two beliefs are current. Some imagine that the methods of the foreign missionary are on a level with those of Jonathan Edwards; that while we are living in the day of the limited express train and the automobile, the work of Christians abroad is still in the age of the stage-coach. Others, who are aware of the breadth of the missionary work to-day, nevertheless suppose this to be a very recent

development. The fact is, that our representatives abroad left the stage-coach period long before the wildest imagination dreamed of traveling from New York to Chicago in eighteen hours. In fact, it may almost be said that the missionary leaders abroad never passed through the day of the coach.

President Henry Churchill King, of Oberlin, declared a year ago: "The clearly and consciously enriched conception of missions which belongs to the present day is not simply, perhaps not mainly, the result of changing theological or sociological convictions at home. It is the immediate result of the working out of the Christian idea on the mission field. Dr. Sidney L. Gulick is probably quite justified in saying: 'It would be a mistake to suppose that foreign missions first took on sociological forms of work and international value only after, and because of, the rise of sociological conceptions of man. On the contrary, although foreign missions started from a frankly individualistic theory of religion and salvation, the actual work was from the start practical and sociological. It would be truer to say that the Christian thought in regard to foreign missions has become sociological through observation of and reflection on what missions were actually doing than through the rise of sociological speculation along other lines of thought. Practice has always preceded theory, as it always does in the large. It is probably safe to say that the sociological conception of the function and value of foreign missions is more due to missionary experience than to the general sociological trend of modern science.' "

Not only, as Dr. Gulick puts it, was the work of missions "from the start practical and sociological," but it has been shown that from the beginning it was consciously and purposely so. The religious theory may have been frankly individualistic; not so the purpose. The modern missionary movement is hardly yet a century old in the United States, and those who inaugurated this great undertaking were men of broad vision. Their theology would seem to us to-day crude, to some even barbarous, it may be, but their aim was something far beyond the rescue of individuals here and there; they sought the transformation of whole nations and peoples and the Christianizing of social customs and institutions.

The oldest foreign missionary society in the United States is the American Board of Commissioners for Foreign Missions, which

was organized in 1810, sent out its first missionaries two years later, and within a generation had started work in each of the five great continents as well as in the island world of the Pacific. In what spirit were these men and women sent out? Not in any spirit of antagonism or hostility to other religions, but in the spirit of brotherly helpfulness. The instructions given to the first band of missionaries in 1812 included the following:

"You go, dear brethren, as the messengers of love, of peace, of salvation, to people whose opinions and customs, whose habits and manners, are widely different from those to which you have been used; and it will not only comport with the spirit of your mission, but be essential to its success, that, as far as you can, you conciliate their affection, their esteem, and their respect. You will, therefore, make it your care to preserve yourselves from all fastidiousness of feeling, and of deportment; to avoid every occasion of unnecessary offense, or disgust, to those among whom you may sojourn; and in regard to all matters of indifference, or in which conscience is not concerned, to make yourselves easy and agreeable to them.

"In teaching the Gentiles, it will be your business, not vehemently to declaim against their superstitions, but in the meekness and gentleness of Christ, to bring them as directly as possible to the knowledge of divine truth."

As early as 1837, the ultimate goal was declared to be to "rear up native churches, place them under the care of capable native elders ordained over them, [and] furnish them with ample self-propagating gospel instrumentalities at the earliest possible period." To this end the board explored mission fields, translated, printed, and distributed books, sought to educate people, instruct them in reading, writing, arithmetic, geography, and other sciences, as well as in the doctrines on Christianity. Missionaries to Hawaii were in 1837 told that they were to lead the people up "into a reading, thinking, cultivated state of society, with all its schools and seminaries, its arts and institutions."

It must be admitted that loyalty to these high aims has not been always observed, that narrower counsels have at times prevailed, and that out of the thousands of missionaries sent forth from America, to say nothing of Great Britain, some have been men of too small calibre and too limited training to cope successfully,

upon this broad plane, with the great problems of mission fields. Yet the leaders in the movement have, almost without exception, been men of large views, and sociologists have come to recognize in not a few of the religious leaders in the Orient fellow-workers in the cause of science. A missionary to India declared recently that from three-fourths to nine-tenths of the missionary problem there was sociological.

What, then, are some of the principles recognized by missionary leaders, which show that they are abreast of and in sympathy with the sociological thought of to-day?

They believe that cultures and religions are transferable. There are sociologists who maintain that each nation must work out its intellectual and social, as well as its religious, salvation for itself, and that in this process there should be no interference from without. All recognize the truth which lies at the basis of this. A civilization cannot be plucked up bodily from one country, transplanted to another, and by magic made to take root at once and flourish without modification or change. Only rarely can a full grown tree be transferred to a new environment without danger. Seeds, however, can be made to grow in soils thousands of miles from their birthplace, and by processes of grafting new vigor and beauty may be given to fruit trees. In this manner strawberries have been introduced into North China, and the Gravenstein apple is destined to supplant the beautiful but tasteless Chinese apple; and that, too, it may be added, through the instrumentality of a missionary. So with civilizations. What is our virile Western civilization but the result of grafting upon the vigorous but undeveloped nations of Western Europe the culture of the Roman Empire, while in the comparative decadence of the Eastern churches is seen the result, in part at least, of an isolation which excluded new life from without. Japan itself, that modern wonder of the East, has in the past centuries, as well as within the last generation, shown a marvelous power of grafting into her own civilization elements of strength and variety obtained from others. Buddhism, founded by Gautama in India, spread thence to the East and is now indigenous among millions in Southeastern and Eastern Asia. There is, therefore, no scientific reason for holding that Christianity, which originally came from the Orient, should not find itself again in its own environment.

On the other hand, the missionary leaders clearly recognize that new forms of thought or activity cannot be imposed upon another in any mechanical, external, or superficial way. This is the cause of the failure of the Catholic Church centuries ago to Christianize Indian tribes in the southern extremity of the American continent. All that can be done is to plant the seed, foster it, and let it grow as it will, with the necessary modifications produced by the influence of its environment. This is recognized most clearly by missionary leaders. Western Christianity has been profoundly modified by the habits of thought of the West, as well as by the political and economic struggles of its followers. Its divisions are largely the outgrowth of its dissensions. Its polity is in harmony with the political habits and institutions of its adherents. To try to perpetuate abroad the results of our quarrels at home or to insist that ecclesiastical government shall take forms at variance with the political genius of a people, is a folly equaled only by an attempt to force the cannibals of some savage tribe in the South Seas to govern themselves in the manner of a New England village. Nothing is further from the thought of missionary leaders. It is all but universally recognized that the native Christian Church must ultimately be a self-governing church. Dr. Arthur J. Brown, secretary of the Board of Foreign Missions of the Presbyterian Church in the United States of America, declared a year ago:

"And in the matter of the creed and government of the native church we must more clearly recognize the right of each autonomous body of Christians to determine certain things for itself. . . . In the course of nearly two thousand years, Christianity has undoubtedly taken on some of the characteristics of the white races, and missionaries, inheriting these characteristics, have more or less unconsciously identified them with the essentials. . . . How far is it proper for us to impose upon them our Western terminology and ecclesiastical forms? How far are we to be the judge of what it is necessary for other churches to accept? It is difficult for us to realize to what an extent our modes of theological thought and our forms of church polity have been influenced by our Western environment and the polemical struggles through which we have passed. The Oriental, not having passed through those particular controversies, knowing little and caring less about them, and having other controversies of his own, may not find our

forms and methods exactly suited to his needs. Let us give to him the same freedom that we demand for ourselves, and refrain from imposing on other peoples those features of Christianity that are purely racial. . . . Let the Asiatics accept Christ for themselves and develop for themselves the methods and institutions that result from His teaching. Let us have faith in our brethren and faith in God. . . . We should plant in non-Christian lands the fundamental principles of the gospel of Jesus Christ, and then give the native church reasonable freedom to make some adaptations for itself . . . The Bible was written for Asiatics and in an Asiatic language. Christ himself was an Asiatic. We of the West have, perhaps, only imperfectly understood that Asiatic Bible and Asiatic Christ, and it may be that by the guidance of God's Spirit upon the rising churches of Asia, a new and broader and more perfect interpretation of the gospel of Christ may be known to the world."

No other conclusion is possible. The numbers of the missionaries can never be sufficient to force upon the East views that do not commend themselves to the Oriental mind. Even the few who go farthest in urging upon the Church the duty of sending out large numbers of additional workers, hold up as the ideal one white missionary for every 25,000 of the population, and at present the forces are far below this figure. Suppose that the Buddhists of Siam should send to the city of Philadelphia a force of sixty missionaries to impose their tenets upon that city. This would be the number required to give one missionary to every 25,000. Would there be the slightest danger that the inhabitants of that city, estimated at a million and a half at the beginning of the year 1907, could be led by this small company to adopt generally any views which did not commend themselves as true and beneficial? Yet this is a proportion of propagandists far beyond that of the white Christian workers in the mission fields of the world. Moreover, the task of the Buddhist missionaries in influencing the more or less fickle population of any great American city would be child's play compared with that of the man from the West who tries to lead often a quarter of a million or more Orientals, conservative, suspicious of all that is foreign, and supremely self-satisfied, to adopt strange Western views; and it is equally evident that what success he has will be due in the end to the cordial acceptance of the new truth by its followers. In the elaboration of these views and their

application to local problems and conditions, the missionary is so far outnumbered by the native Christians that he could not, if he would, exert undue pressure upon those who have accepted the new doctrine and have received the new life. Moreover, the missionary does not seek to be the dominating force in the new Christian community. Increasingly it is recognized that the work must be carried on by the native Christians themselves; they are to be the evangelists to their own people. The man from the West is relegated more and more to a position of co-operation or even of subordination. For a time he will in new fields be the dominating force, but as there springs into existence the new Christian community, his influence proportionately diminishes. The work of educational leadership he often retains, but even here there are great educational institutions, notably the Doshisha in Japan, whose president is chosen from the constituency of the college itself. There are some who hold that ultimately the missionary from America will go to Japan or India, at the request of the Christian leaders there, to assist for a term of years, just as men like Gypsy Smith and Dr. F. B. Meyer are drafted into service in this country. Such brotherly co-operation is quite in accordance with the spirit of modern missions.

This view of missionary polity is no mere theory; it is already in practice. One of the best illustrations is in Japan, where the Kumiai churches, the outgrowth of the work of the American Board of Foreign Missions, have come to full self-support and self-direction. For a considerable period the mission has had no control over such churches as could support themselves, although its relation to those which needed help was different. Within the last few months this situation has changed and the support of every new church, which grows out of the efforts of the mission, is assumed by the Japanese Christians themselves. The Kumiai churches and the mission are co-ordinate bodies, working side by side, in cordial co-operation. The mission is doing pioneer work, but so are the native churches, and this they will increase as rapidly as their numbers and financial ability permit. In Ceylon the native churches of the American Board mission are entirely self-supporting and maintain their own missionary societies. The same is true among the Zulus of Natal, South Africa. Progress in this direction would be still more rapid were it not for two factors: the need of

trained native leadership and the frequent disinclination of the people to assume responsibility. No native church can be wisely allowed to assume autonomy unless it has leaders who are educated and trained to act wisely. In some instances the lack of such men has held back the native church for years. Hence it is seen how imperative it is to begin at the very earliest possible moment to train men to become future leaders. The other difficulty arises from the fact that in much of the Orient the people have never possessed self-government and have no desire for this, the dearest of possessions to the American; they would rather be dominated by some one than assume the responsibility themselves. It often takes long-continued, painstaking efforts to bring the Church to the point where, leaving behind the restrictions of childhood, it can emerge into manhood.

Thus the missionary leaders believe that a Christian civilization may become indigenous in Eastern lands, where it has only recently been planted. They also hold theoretically and practically to the broadest conception of what this work of missions implies.

In the home land, as already noted, it is generally admitted that the duty of the Church is not confined to rescuing individuals from evil lives and from the danger of future suffering, but that it should seek the enrichment and transformation of men here and now, as well as the establishment of social relations upon the basis of justice and brotherhood. Hence the churches are entering into lines of activity which are designed to give the community the possibility of broad, normal lives. Kindergartens, gymnasiums, classes of various sorts, lectures, concerts, and other social entertainments are all included among the instrumentalities which are used by the Church. A church which does not concern itself with the interests of its natural constituency and seek to offer to outsiders that which is lacking and which will appeal to their sense of need is rapidly becoming an anomaly. The social ministrations of the Church are recognized as an essential part of its activity, even though the unique function of the Church remains spiritual in the best sense.

What is true in America is equally true abroad. In fact, our new forms of work were long ago seized upon by the missionary as valuable agencies. Dr. James L. Barton, foreign secretary of the oldest foreign mission board in this country, in a public address

a year and a half ago, declared it to be the duty of the missionary to interpret the gospel "into terms as broad as the activities, experiences, and aspirations of men, and make it vital to every phase of human society as well as to the needs of the individual soul." To this end, he maintained, the missionary must preach and propagate the gospel of physical cleanliness and sanitation, of physical perfection, of industry, of a sane, pure society, of brotherly love, of good works, of intellectual development, of justice, equality, and common rights, of human sin, and of redemption for the entire man here and hereafter. This varied work costs money, especially in the beginning, and hence in no one field can all be done that is called for. It is equally true that the needs of Japan, for example, are very different from those of India, and these in turn different from those of the primitive tribes of Central Africa or the South Seas. There is little demand for medical work in Japan, for the Japanese are to-day in the van of medical and surgical progress--though it should be added that modern medicine was introduced into Japan by the missionary. Neither does it need industrial training. On the other hand, the millions in China, among whom there is so much terrible suffering and practically nothing worthy of the name of medical science, call loudly for the work of the physician and nurse, and the outcast hordes of India, forbidden by the rules of caste to enter into any lucrative occupation, may be lifted by industrial training from lives of almost incredible poverty to the plane of comfort.

While the work varies with the field and with the type of worker from abroad, taking the mission field as a whole, we find five clearly defined types of work: that of evangelism, education, industrial training, medical training and relief, and publication; to which might well be added a sixth, that of social service. The evangelistic spirit pervades the whole work, for it is seen abroad as well as at home, that there is need of awakening new impulses, planting new purposes in a man, before he can be led to any high development. At the same time, the peoples in mission lands are held back by burdens of sorrow, evil, superstition, or fatalistic beliefs which can best be removed by the acceptance of the good news and fuller life of the Christian religion. Yet while this is true, increasing emphasis is placed upon the other lines of work.

No community can be what it should be so long as the per-

centage of illiteracy is high and there are no trained leaders. The mission seeks to meet this need and the people of the West are supporting a system of education which reaches from the kindergarten up through the common, the high, and the boarding school, to the college and university. The best educated class in every illiterate country is usually the Christian community, and there have already sprung out of this work men and women who are capable of leading their people to better things. Many of these are Christians, some of them have not nominally changed their religion, but they all, with few exceptions, have their faces turned towards the future and are guiding all those whose intelligence has been quickened and who are willing to follow in the path indicated.

One great curse of most Eastern lands is the low standard of living, the industrial inefficiency of the people, and the unequal distribution of wealth. In Africa and many other regions the men regard manual labor as degrading and are content if they can have wives to till the soil and minister to their wants. Through industrial training the missionary is seeking to remove this curse and to make possible a community which can support itself upon a standard of living immeasurably higher than has ever been known. The value of this work in India is recognized by government, which helps to maintain these agencies for increasing industrial efficiency.

The lack of a medical science worthy of the name entails needless suffering, costs millions of lives, and increases poverty. These results are also brought about by the unspeakably filthy conditions in which millions live. This is another need which the missionary is trying to meet. He relieves suffering through hospital and dispensary, he checks the ravages of plague through vaccination and various measures of sanitation, and he trains native physicians and nurses to do this work for their own people. The graduates in medicine of the Syrian Protestant College at Beirut are found throughout Turkey. The medical missionaries are contributing to medical science and performing operations of which any surgeon in this country would be proud.

It is not enough to teach people to read, they must have something to read; a vernacular literature is a prime requisite for an intelligent community. In many countries the missionary has been compelled to reduce the language to writing, prepare grammars and dictionaries, and begin from the start the formation of a literature

of any sort. In other lands there is a large literature, but quite generally it is in a language unknown except to a few. It is also often the case that much of the present literature, whether in an ancient language or in the vernacular, is of a degrading type, which cannot be tolerated by a Christian civilization. To supplant such literature where it exists and to furnish books of information as well as inspiration is the effort of the missionary who spends time in literary work. It should be noted that the productions of the mission presses and the books and pamphlets prepared by the missionary are by no means exclusively religious. Text books for schools and books of science are constantly brought out, and only lack of funds hinders the preparation of a much broader literature. Best of all, in many places an indigenous native vernacular literature is appearing.

Under the head of social service there can be found abroad nearly every line of work that is seen in the United States. Each mission station is virtually a settlement. The missionary studies conditions and seeks to become a center of helpfulness to all around. In Japan, Miss Adams, of Osaka, went to live in a slum district, and has succeeded, by the use of settlement methods, in transforming the region, according to the testimony of the police and other officials. The apostle of prison reform in this same island empire was a missionary. Missionaries rescue orphans, train the deaf, dumb, and blind, care for lepers and the victims of opium, protest against the prevalence of great moral evils, and secure their restraint or suppression. While scrupulously avoiding all interference with questions of government, they stand everywhere for justice, honesty, and square dealing by government or individual, for the suppression of corruption of whatever sort, and for the principles of the brotherhood of nations. They are often the counselors of native officials who desire the progress of their people. In many instances a mission has taken a people ignorant and degraded and has gradually led them on until they have been actually organized into self-governing Christian communities, which in many respects would put to shame us of America. Uganda is a standing example of what missionary work of the broad sort can accomplish within a generation. Native rulers and government officials constantly testify to the value of the work of the missionary.

Such are some of the principles upon which the great leaders

of the missionary movement are now working. An acquaintance with the social sciences is being insisted upon more and more as a necessary preparation for missionary work, and missionaries are here and there making real contributions to sociology, notably Dr. Arthur H. Smith, of China. The missionary movement abroad, as carried on by the great American mission boards, is increasingly in harmony with scientific principles, and will soon be able to point out the path, if it has not already done so, towards greater efficiency for the Church at home.

## SOCIAL WORK OF THE CATHOLIC CHURCH IN AMERICA

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The social work of the Catholic Church is so intimately bound up with its whole view of life and its normal service of souls that one cannot understand its spirit, agencies or motives unless they are studied in their organic relation to the processes of spiritual life fostered in the traditions of the Church. Doctrinally and historically social service is part of the soul's supernatural life; the development of spiritual emotions concerning one's fellowman is due largely to teaching and practice concerning social service, which have been in the foreground in the life of the Church. Hence, any objective description must take beginning in the estimate of social service to be found in the Catholic view of life. In the exposition here offered, attention is confined to the Church in United States.

By social work may be understood service of the weak by the strong. Whether the relation be direct or indirect, the aim is one—to sustain the helpless weak, to strengthen the hopeless weak, to protect the defenseless weak, and to prevent weakness when possible, making the individual self-sufficient, in advance of falling victim to circumstances which rob him of strength and outlook. Whether weakness is in the individual or in the mass; whether culpable or blameless; whether due to calamity, accident or the merciless evolution of industry, it does not affect the claim of the weak or the motive of the strong in giving aid. The Church is vividly conscious of natural and supernatural solidarity in the race; she accepts Christ's teaching on the dignity and merit of social service, seeing in it an essential section in the supreme law of love. Whatever changes social development may bring into the details of social weakness, the spirit and motive of the Church's relation to it remain unchanged, though, naturally, methods will vary with time and place. In the mind of the Church, then, social service is supernatural in character, motive and result. It is an organic part of religious activity, of the process of individual sanctification.

The service is conceived as distinct from the merit of the recipient, though the wisest traditions of practice impose effective and discriminating restraints on giving. Service must be personal in the most complete sense if it is to be spiritual. It is co-ordinated with prayer and fasting as a highly meritorious supernatural action, as a traditional form of expiation for sin and one of the noblest proofs of consecration to God. Thus, in the Society of St. Vincent de Paul, a highly efficient and progressive lay association devoted to social work, personal social service, is formally represented as a great factor in the work of personal sanctification.

Throughout the history of the Church there have been occasions when some pressing social problem called for relief and personal service. In response to such demands, men and women of intense spirituality and wide-looking charity have felt called on to meet the situation by organizing like-minded persons into religious communities for such service. The members release themselves from basic human attachments by vows and give themselves up to the service of God in social work. Thus the noble estimate of social service found in the Church is met by an equally noble form of personal consecration to it, and in consequence the religious community has been the distinctive agent of social work through the centuries. Once the religious community is organized, approved and active, it becomes a permanent center of religious consciousness, an organ of the spiritualized social conscience and a ready agent for action, its numbers increasing as demands for service multiply.

In the development of the Church the diocese is the unit of organization and growth; the bishop is the leader, organizer, ruler of spiritual life. The diocese is conscious, therefore, of a definite spiritual duty to meet problems of weakness within its limits. The traditions of the Church make the bishop responsible, as far as his circumstances will allow, for the aged poor, the sick poor, the orphans, the fallen. Hence institutions to meet these problems belong to the usual integrity of diocesan equipment. The bishop calls to his aid religious communities, which assume charge of the greater social works undertaken, and appoints, when conditions warrant it, an official diocesan director of charities.

The parish is the unit within the diocese. Its sense of social and spiritual solidarity creates an impulse toward relief of lesser

social problems which touch those who are associated around a common center of worship. Under the direction of the priest, clubs, sodalities, societies arise, one of whose aims is to relieve those who, in any way, are in need.

The development of the city with its distinctive and complex social problems appears to affect somewhat the direction of social conscience. The Catholics of a city tend toward a common sense of relation to problems, since these are city and not parish problems. Hence a tendency, particularly in lay Catholic activity, toward formation of associations which aim to meet common conditions in the city.

Thus the religious community, the diocese, the parish, the city are definite centers of social consciousness which expresses itself in organization for service. Although the religious communities command greatest attention in their social work, lay activity is extensive, sustained and efficient. Religious communities of either men or women, such as now under consideration, may be divided into three classes: (a) those which are devoted exclusively to social service, as caring for the aged poor, for fallen women, for the sick poor in their homes; (b) those engaged in many kinds of work, including social work, as teaching communities, which also conduct hospitals, orphanages, etc.; (c) those whose main work is other than social, but which incidentally and in relation to their chief work do much in social service, as teaching sisters who visit the sick poor and distribute outdoor relief. Lay associations for purposes of social service may be classified in the same way.

Social problems in the last analysis are reduced to terms of the individual; social reform must bear in mind the re-establishment of individuals. Causes of weakness in the individual are more often social than personal. Social work, therefore, may aim to relieve, console and reconstruct individuals, or it may be directed toward general causes. Thus we have relief and prevention, individual and social reconstruction. It may be said, on the whole, that the Church's social work is directed more towards effects than toward causes; toward personal action on the individual rather than on social forces; toward the spiritual more than the temporal. The Church is quick and tender in caring for the aged poor, yet she is not conspicuous in demanding old age pensions; she is watchful of the morals of children and tireless in instructing them, yet

not in advance in dealing specifically with tenement problems; she is sleepless in caring for orphans, yet not particularly aggressive in compelling employers to cover dangerous machinery or in asking society to make stringent laws concerning occupations harmful to health; she is first and strongest in defending the sanctity of the home, yet not remarkable for works in favor of sanitary housing.

Nor is this strange. It may be that the Church is somewhat under the influence of traditions which saw in individuals whole spiritual individuals and not merely social forces. The individual and not the social force is the unit on which in the main she works. In a time when the individual is strong and conscience is uppermost, religion can, in its own right, do much. But the complex organization of society has placed social forces and conditions in the ascendancy and has secularized the agents which deal with them. Nowadays we aim to reform by law and public opinion. Causes of social ills are said to be secular and social; religion is made a matter of private concern; law is a matter of politics, and it is preferred that the Church keep out of politics. While religion is welcomed as an ally in acting on public opinion, and churchmen do so act with power, the tendency is growing by force of circumstances to restrict the Church to action of a secondary kind, and to leave to secular power, leadership in reform work. This is the more marked since religions still divide men while their social interests are identical. This action of the Church on victims of social conditions is supplemented by her normal teaching of duty and spiritual truth, and she hopes always that, if her organic teaching be but accepted, she will include, in the beneficent results which follow, all that may be looked for from law.

However, one spirit and aim stand out strongly in all her social work—the maintenance of the family in its integrity. Her normal teaching holds families together when nothing else could, and her agents of reform exhaust every resource before they permit the breaking of the family bond and consequent disintegration.

Although the estimate and inspiration of social work are Catholic and supernatural, on the whole there is found in the work a breadth which extends service far beyond the limits of catholicism. In many of our institutions, if memory be not at fault, no question is permitted concerning the religion of one entering to obtain relief, and no discrimination is made because of religion.

An important asset in the social work of the Church is found in the quick and effective co-ordination among the agents of service by which acute situations may be readily met. The priest is in constant touch with the people in sick calls, visitation, census taking and in answer to appeals. The people of every unfortunate class, as well as others, come to the church for sacraments, for obligatory worship. In distress the Catholic's first instinct is to turn toward his Church. Catholic children are brought to the Catholic school. Teacher and pupil are in personal and confidential relation. In this way information is quickly brought out concerning distress or need, and at once agents are at hand for action. This, together with the formal activity of lay and religious associations, makes possible very efficient service. Naturally, in spite of this, many cases escape notice, but the substantial results of co-operation are large.

As this co-ordination is an important factor in the Church's equipment, an illustration well known to the writer may be cited: A lay organization, the St. Vincent de Paul Society, took the initiative in founding a summer home for poor children near Baltimore. It is one of a number already begun by the society. A teaching community of priests, the Sulpitians, placed fifty acres of woodland, with fine buildings, at the disposal of the society. Sisters of Charity conducted the home for the first summer, Sisters of Mercy for the second, in 1907. Bands of 125 children from the poorest sections of the city are chosen and collected by laymen and brought to the home for a twelve-day visit. All acute cases of illness occurring are cared for at a nearby hospital conducted by Sisters of Charity, sisters, physicians and nurses giving services gladly. All chronic cases of any kind and defects in senses, etc., discovered while the children are at the home are taken up after the children leave and treated to successful issue in the City Hospital, conducted by Sisters of Mercy. Some twenty Catholic organizations in the city, the clergy and numbers of laymen to whom the work appeals, contribute generously. Practically no expense is incurred in administration and management of the home, so that the maximum return in social service is had on funds contributed. Cases of distress or want in homes of the children which come to the notice of the administration are taken up at once by the St. Vincent de Paul Society. Over seven hundred children are received during one season, each child having twelve days' outing. The

home works admirably and with splendid results, but it could not do so were any of the agencies mentioned not at the generous service of the others, without hesitation and practically without expense.

The fundamental problem in social work is the family. There are agencies of relief at hand to serve it and its members. Many societies, both religious and lay, seek out and visit the homes of the poor, nurse the sick, instruct and stimulate all who have need of such aid. Religious communities of all kinds do immense service in distributing outdoor relief and bearing personal ministration to the home, likewise lay associations, chief among which is the St. Vincent de Paul Society. Its rule tells us "No work of charity is foreign to the society, although its special object is to visit poor families." Whatever the agent which acts, hospitals, orphan asylums, homes of preservation are at command when any of them are needed to meet an emergency. Through action of both religious and lay associations, neighborhood classes are formed for cooking, sewing, basket-work and other pursuits much after the manner of settlement work. Day nurseries care for children of mothers who work; summer homes provide outings for children of poor homes; associations provide outfits for newly born infants and offer Christmas joys to the children who otherwise would never know of Santa Claus save as a dream. Employment bureaus are operated in connection with many associations; sometimes we find successful endeavors to provide temporary loans or carry a long-standing insurance policy which otherwise would be lost. In larger cities, homes for destitute children, newsboys, homeless boys are found.

In the main, orphans are cared for in asylums conducted by sisters. Effort is usually made to place the children early in carefully selected homes. Some difficulties are met when state laws shut out children born outside of the state. In many cases industrial schools succeed the orphan asylum, and boys and girls are brought to a condition of independence under institutional care.

Fallen women, either legally committed or voluntarily seeking reformation, are cared for in Good Shepherd or Magdalen homes conducted by sisters. In their work provision is made for every class of inmate. Those who are completely won and desire to remain secluded from the world, form a class by themselves and live a life in retirement, labor and prayer. Children whose morals

are in danger are taken into preservation classes and receive school-ing and industrial training.

Insane, feeble-minded, deaf and dumb are cared for by sisters in institutions. Homes for working girls are instituted to give the inmates the security of home and the refinement of association that may protect them.

The sick poor are cared for in their homes or in hospitals. In this connection hospitals are peculiarly organized. Some are entirely for the poor, for indigent consumptives, for cripples, incurables, all conducted by sisters or brothers. The majority of hospitals, how-ever, aim to serve the well-to-do as much as the poor. But, on the whole, through revenues received from the former, the institution and its staff of nurses and physicians of every form of faith, and Catholic sisters are enabled to maintain quarters and give services to the helpless poor, both in the hospital and through widely devel-oped free dispensary work. In many instances maternity hospitals are found where unfortunate mothers may find refuge and their infants are saved from the dangers which usually threaten them.

Work among the colored people and the Indians is extensive. It is to a great extent similar in spirit and scope to the general social work of the Church. Much is done with varying but increas-ing hopefulness in the cause of temperance. Parish organi-zations are found in great numbers, children are pledged on occa-sion of first communion or confirmation to total abstinence; schools, colleges, academies have active temperance societies. Usually appeal is made to the supernatural, and the thought of the Sacred Thirst of our divine Saviour is appealed to to strengthen children against drink. Local and diocesan organizations are united in one great national movement, the Catholic Total Abstinence Union, which works close to the spirit of the American hierarchy. One thousand and thirty-eight societies are federated in the union.

As on the whole the character and work of religious communi-ties is fairly well understood by those who desire to know of them, no details of organization are now offered. Since no directory of lay social service exists, it is quite impossible to offer any detailed information concerning methods or extent of activity, nor can numbers in societies of men and of women be stated with any accuracy. Societies, based on the bond of nationality or locality, and founded for purposes of mutual benefit, insurance and the like,

incorporate many forms of social service for members, and contribute in marked ways to funds which enable religious communities to accomplish so much. Such organizations are numerous and efficient among those of Irish and of German descent in this country. Within their own circles and beyond them, they show large results in works of relief and prevention.

The St. Vincent de Paul Society is the greatest lay association in the Church devoted, strictly from a general spiritual standpoint, to social service. The unit of organization is the conference in the parish, which meets weekly. The conferences of a city are united into a particular council, which expresses the mind of the society in the city, holds quarterly meetings and provides for general situations and special problems. The particular council usually creates the special works committee which has large powers in dealing with questions. Over the particular council stands the central or superior council, which takes in a section, a diocese or a country. The council general is the highest authority.

Members are naturally those who feel drawn to social work. The chief aim is to visit poor families, defend and maintain them, procure employment for idle fathers and meet with energy and resources all demands for help. The society works always in close relation with priest, bishop and religious community, and has the whole range of institutions in the church back of it in its work. Its constitution and rules permit great elasticity. In New York the society conducts a home for convalescent women, a summer home for poor children, a home bureau for placing out orphans in homes and keeping record of their welfare. It maintains special committees for visiting the poor in hospitals, the Juvenile Court prisoners, for conducting boys' clubs and an employment bureau. In other large cities its work is equally varied and more or less of the same nature.

Modern circumstances have so affected the weak and afflicted, and have so emphasized the material and social aspects of their condition, and civil and social authorities have become so active in positive relief work, that the question of relations among agents of social service becomes one of some importance. The idea of association is developing. Effort is made to co-ordinate all agents of social service in harmony, to prevent fraud and insure best results. From the foregoing exposition the reader may infer that

varying attitudes toward co-operation would be found among Catholics. But the tendency is toward sympathetic exchange of services and recognition of the value of them to all active agents of charity. The International Convention of the St. Vincent de Paul Society, held in St. Louis in 1904, adopted a resolution to the effect that "As American citizens it is our duty to co-operate with charity workers of all creeds in all that pertains to the elevation of our fellow-beings, but in this co-operation we should be always guided by our rules, which wisely forbid the exposure of the misfortune of our poor." In large cities known to the writer, where co-operation with associated charities has been instituted, most encouraging results have been secured. Participation by Catholics in the work of the National Conference of Charities and Corrections has not been without good results.

No records are available showing the range of social service given by lay associations of men and of women. The aggregate is surely imposing. There is on the whole a marked tendency in all charitable endeavor to be mindful of the feelings of the poor, even to the extent of guarding carefully names and amounts given in relief. Thus, in the St. Vincent de Paul Society, some officers have power to receipt for money used in relief and to keep secret the names of those aided. When an effort was made to install an exhibit of Catholic charities at the St. Louis Exposition, although it had highest approval from nearly the whole hierarchy, some opposition was met because merely of an instinctive dislike of any kind of publicity in social work. As a result, only an incomplete exhibit was made, and it was possible to include in it the work of only few lay associations.

It is impracticable at present to attempt to make any accurate statement concerning statistics of religious communities engaged in social work. The official Catholic Directory contains the greatest amount of material available. But some institutions present many features of activity among which distinction is not made in reporting. Thus an orphan asylum or a home for the aged conducted in connection with a Mother House will not show the number of sisters in active social work; in the directory poor patients are not distinguished from pay patients in hospitals; some hospitals report average numbers, while others report whole numbers for a year; some institutions fail to report the number of sisters engaged,

others report them, but not the number of inmates. The works on the whole are so vast that any attempt at an analysis based on the full reports of the institutions themselves would go far beyond the scope of this paper.

On the whole, the traditions of social work in the Catholic Church are marked by a constant desire to let good works be known to God alone. The work is done as a form of consecration to God. It then has the right to be hidden from publicity. Those who have given their lives in this way to service of the weak and sorrowing are slow to welcome and reluctant to understand the publicity which nowadays accompanies social work. A religious community which sent many sisters as nurses in the Spanish war was unwilling to furnish any figures to an inquirer. The superior of a community devoted to nursing the sick in their homes kept no records which would enable a student to find the volume of work done. This spirit is so fixed and consistent that no effort is made in this exposition to present any tables of facts. A few were prepared at some expense of time and thought, but they were so far short of conveying a just impression of the social work of the Church on the whole, that it seemed best to omit them. An inquirer will not understand this work unless he look at it from the standpoint which places it in its relations to the whole Catholic spiritual estimate of life. When so studied, it is easily seen that much importance is attached to the desire not to let one hand know what the other gives.

## THE CHRISTIAN SETTLEMENT

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The social instinct or desire for companionship is strong in human nature—people of similar characteristics gather together whenever opportunity offers. Therefore, in every large city we find sections known as "The Bowery," "The Tenderloin," "The Devil's Pocket," "The East Side," "The Neck," etc. These districts are inhabited almost invariably by people who are little known and thoroughly misunderstood. In many cases they are foreigners with whom their neighbors have no relations except in business, and very often they are found even trading only among those of their own nationality. The most casual observer knows that in such neighborhoods the living conditions are unsanitary, the ignorance is appalling, the moral standards are low, the social customs are degrading and the religious life is little more than superstition. These are the districts from which the political boss reaps his harvest with least labor and expense. From such sections a large proportion of the criminals come, and here are found the dens and dives of iniquity in greatest numbers. These few general facts discovered in the routine of city life led to the necessity for doing something to bring about a better state of affairs.

Good impulse under rational control led those who longed to help these people, to a realization that actual life among them must be the means of discovering and meeting their needs. The settlements thus established immediately became the centers of investigation and the sources from which sprang other organizations and efforts for social betterment. A settlement is, therefore, the actual residence of men and women in a neglected district for the purpose of joining hand in hand with those living there to understand and improve their condition in a friendly and natural way. No man can help his brother until he understands him and has his confidence—neither can a group of people help a neighborhood until they know and have the sympathy of those among whom they live.

A settlement is not necessarily an institution, although in some

cases a well-equipped building is essential. A settlement building should, however, be so constructed as to provide a home for the residents and a house where the people of the district may join with their new neighbors in all sorts of good and useful occupations and recreations. The scope of settlement work is absolutely unlimited—it should touch every phase of human life in every department of its being.

Naturally, it is largely a social institution, since we are considering a group of residents who have a social life of their own and at the same time a desire to affiliate with their neighbors and thus develop with them a healthy community spirit of hearty co-operation for better conditions. But while "social" seems to be the word, and is largely the method, it is only a part of the whole fabric of settlement work.

Much of the effort should be individual, and in fact, the most effective service is rendered when a single resident deals quite personally with one of his neighbors. The worker must study every phase of life in his district—physical conditions, moral standards, social customs, intellectual activities and religious spirit. There are the questions of health, sanitation, housing conditions, political methods, labor problems, education, church life, moral habits and various others.

Everything that concerns the people should interest acutely the settlement residents. Some settlements have greatly narrowed their sphere by refusing to tackle the religious question—these workers claim that to introduce religion engenders controversy and destroys the social harmony which is essential in such a center. Superficially and temporarily this is probably true, but in the long run exactly the opposite will result, for social ties without a moral basis will ultimately break down, and there can be no abiding morality apart from religion. On the other hand, religion forms social ties that grow stronger and stronger, although these ties, at first, bind only the few, the masses of people will gradually respond to that which meets their deepest need. This can be found only in religion.

The desire to avoid the religious seems to spring from several imaginary difficulties; in the first place, it is feared by some that to let the people know that a settlement and its residents stand for something positive in religion will, to use a slang phrase, "queer" things and create a chasm between resident workers and the neigh-

borhood people. Genuine religion creates no chasms—but promotes sympathy and love. The chasm is created by lack of religion, no matter how much the worker may profess. Jesus of Nazareth has more devoted friends to-day than any other person, and He stands as the only perfect settlement worker—the originator of the settlement idea and the constant ideal and inspiration for all settlement workers. His spirit and His methods have not been improved upon. It is, therefore, most fitting that settlements should bear the name Christian—an honest acknowledgment of the origin, and a definite expression of the ideal.

Again, religion is left out because it is claimed that the average settlement worker does not know how to handle religious questions properly and tactfully. Granting that this is true, we believe that the headworker should train his associates in religious work as well as in other forms of service, and should choose only those for this department who are qualified to do it. Let me say, however, that simple testimony is sometimes the most valuable religious method.

Though the above reasons are usually given for omitting the religious, the deepest and most likely reason is that many leading settlement workers do not feel it to be necessary—they claim that morality is sufficient—or they think one religion as good as another. Or if they do believe in “religion,” it is ethical religion, so-called, with the supernatural left out—the hollow shell without the substance—the result without the cause.

Our position is that morality is the basis of settlement work and all social work, that religion is the basis of morality, that Christianity is the final religion, and that constant conscious fellowship with the living Lord Jesus is the sum total of Christianity and of life. There is no genuine life apart from Him—it is mere existence.

Therefore, the only complete settlement is the Christian settlement. In order to be genuinely Christian the known policy of the settlement must be to apply Christianity to the individual and social life of the neighborhood. The headworkers must not only be so-called passive Christians, but active and aggressive Christian workers, not enthusiasts or fanatics or fools in their methods, but as much like Jesus Christ as possible. Many may work in the various departments of the settlement whose religious life is unknown or undeveloped, but those who have charge of things must agree on

all important matters of policy and, above all, on the religious problems. It is most important to make plain the fact that to be Christian does not tie the settlement to any existing sect, creed or method of work. One of the greatest problems of the Christian settlement is to find out how genuine Christianity can be effectively introduced into the individual and social life of a community blindly prejudiced against anything that bears the name of Christian. The difficult and unsolved condition of this problem involves no reason for avoiding it; it is rather an additional stimulus to those who have learned the process of discovery through the solution of other problems.

Another advantage of the Christian basis is in keeping up the spirit and moral tone of resident workers. The report comes to our ears that in one large settlement beer was served on the table to the workers. It is hardly thinkable that in a Christian settlement the approval of the residents could be placed upon a habit which has such a demoralizing effect upon their neighbors who have not the power of self-control. The Christian basis also prevents the settlement from becoming a place where people get only what they want instead of what they need and should have.

Any distinction between social and Christian work is most unfortunate, since the latter certainly includes the former, but, on the other hand, so long as social work is considered sufficient or one religion thought to be as good as another in this world, Christianity must protest by planting and conducting its own centers. Jesus Christ divided sharply between His followers and others, not because He desired to create social strife, but because He had infinite foresight and penetration and knew that only by this means could He secure thorough and abiding moral results.

A prominent social worker told me recently that he could agree with probably nine-tenths of the things which a certain Christian settlement would stand for, but did not feel at liberty to take an active interest, because he felt that the problem of tackling the religious openly, in view of the difficulties involved and the scant results to be obtained, was too great. He stated a fair proposition, and, apart from the supernatural element in Christianity as an asset, his conclusion was probably correct. The essential difference between a social settlement and a Christian settlement is doubtless to be found in the attitude of the settlement towards supernatural

Christianity. If Christianity is the only true religion and is essential to final completion of character, then the settlement must be Christian, but if other religions or no religion produce as good character results, then any emphasis put on the religious is unwise and the social settlement is both easier and better. Let it be distinctly understood that it is not my wish to say that the lines are clearly drawn in most settlements. I am fully aware that Christian and Hebrew and moralist work together and often as individuals do religious work, but I am discussing the policy of the average settlement and speaking of that for which it stands in its neighborhood. My contention is that there can be no complete neighborhood center without a religious basis, and that this center cannot be in the long run effectively religious without being aggressively Christian.

Most foreign missionaries are really Christian settlement workers, for they take up residence in a city or village and by example and effort set about to make a change in their new environment. And, too, their activities include every variety of service and involve organization in every sphere of human life. They lead the people by example and teaching to be sanitary, to "keep house" properly, to observe good manners, to be honest, to correct political abuses, and, in short, to have for the first time high ideals and a social consciousness. Our settlements in this country could learn much from the practices of those devoted settlement workers in China, Japan, India, and Africa. The Christian settlement and the average church hold each a different place, but the settlement is quite unnecessary in a neighborhood where the Church has adapted itself to modern social conditions and needs. When we realize that hundreds of thousands of dollars are invested in church buildings so poorly constructed that they can be used only a few times each week instead of every day in the year, does it not seem necessary that the settlement should supply what is lacking? A church plant providing gymnasium, baths, playground, athletic field, concert hall, quarters for resident workers, summer camps, etc., would make any nearby settlement unnecessary, since it would do the work quite as effectively, provided only the denominational lines were practically forgotten. Is it not probable that settlements exist only because the Church has failed to do the service which was intended by its Founder, and may it not be the highest mission of the settlement

to awaken the Church to its fuller responsibility as the Y. M. C. A. and Y. W. C. A. are doing in other fields? The great function of the settlement religiously is to win the people to Christianity and then to let the people themselves choose their own form of worship and church connection.

There are many dangers to be guarded against in a Christian settlement; for instance, that of calling it Christian if the spirit and power of the Master Himself is not felt through the resident workers. Any "holier-than-thou" attitude towards the neighborhood people is fatal. A spirit of aloofness from other workers will isolate and hinder the work. A critical spirit means paralysis. Only Jesus Himself is a safe example of what resident workers should strive to be to their neighbors. But while His spirit prevails the sphere of usefulness in a needy district is truly unlimited.

There may be a variety of definite lines of work in a settlement. The children need to be looked after because of their dirty, cramped and wretched homes. A kindergarten conducted if possible by the city Board of Education, with volunteer workers to help, is most desirable. A day nursery in the building is an important part of settlement work and a boon to the babies and their mothers.

The settlement may help to solve the problem of dealing with truants and to enforce the law of compulsory education. The probation officer and "cruelty" agent may be of great help. Child labor is a crying evil, and no agency is so well equipped as the settlement for its overcoming. Night school has its place for the boy and girl who leave school at an early age in order to help with the support of the family.

The mothers of the neighborhood who have grown up in slovenly homes and worked in the mills until the wedding day comes, need to learn the first principles of housekeeping, cooking, sewing, etc. The girls and young women may be induced to spend two or three evenings each week in learning the essential qualifications of a successful working man's wife.

The settlement should manage the athletic sports of the young people, in which recreation and healthy exercise are combined, for it has been proven that the athletic sphere when taken hold of properly may be one of the largest fields of usefulness in neighborhood work, since all classes of people will rally more enthusiastically about athletics than anything else.

Debating societies, political meetings and games like bowling, etc., may be used as a means of keeping the men of a neighborhood out of the saloons. The mothers' meeting may be made a bright spot in the monotonous lives of the homekeepers. All of the people can doubtless be interested in public lectures, concerts, entertainments and athletic match games gotten up by the club members.

A children's playground takes the little tots off the streets and the roof-garden is always a delight on hot summer evenings. Every settlement should have a large athletic field near enough to be reached easily by the people of the neighborhood—saloonkeepers are now providing these fields free of charge, and are even paying teams to play match games. But there is no department of settlement work more important than the summer camps—a week or two in the country during the hot season may mean more to the people whom the settlements are trying to help than months of effort along other lines during the winter, for there is no place where workers and people learn to know each other so well as in a camp where they actually live together day and night. No settlement is complete without those summer camps, and no settlement needs to be without them, for they are neither hard to manage nor expensive, inasmuch as the people will pay a large proportion of the costs.

The settlement should co-operate with the city and all other neighborhood agencies in every possible way, but the settlement itself should do for the people only those things of a personal nature which it can do most wisely and sympathetically. The city and other charitable agencies should be induced to look after *general* problems of environment.

It is plain that those who are to be competent leaders in such unrestrained and unlimited work as that which we have discussed need to be well balanced and well trained. It is, therefore, most desirable that all Christian settlement workers should have, in addition to the fundamental equipment of an earnest Christian spirit, a thorough training in the most up-to-date methods of social work. Mere enthusiasm to "save souls" is not sufficient, for all souls reside in bodies. Jesus healed diseased bodies, unbalanced minds and dealt with the social customs and conditions of His time. He has sent us forth as the Father sent Him, and it is ours to do as He did in His name.

## THE SETTLEMENT'S RELATION TO RELIGION

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There exists a general disinclination to discuss the relation of the settlement to religion. This is due primarily to difficulties of definition. There is still no common understanding of the nature of the settlement, and the definitions of religion increase with the years. Where both terms are fluid, the relation between the two may be so variously expressed as to paralyze any hope of coming to a clear statement.

If we think of the settlement as a mission, it is clear we do not regard it as a school, or as a new form of charity. Similarly, if religion be considered a system of duties, it is quite a different thing from the expression of the relation of the individual to God or from the idea of a perfect human society called the kingdom of God. We may find a relation between the settlement and religion if we accept certain definitions, while we may discern no such relation if we employ other definitions. In general, however, we know what we mean by these two terms sufficiently well to express in a rough way the relationship between the two.

The settlement is not a mission, not a school, not a charity, but a group of persons living a common life, learning the meaning of the life by which they are surrounded, interpreting this life to others and acting on what they have learned. And religion in our common thought of it means the framework of life—the outline by which we measure events, that which makes proportion possible, our thought of the whole of things. That which commands the best and the most of us is religion for us. Love, friendship, a hope for a perfect human society, a passion for social justice, a belief in a progressive economic order, a conception of progress in history, the artist's vision of beauty—all these have a religious element in them as they command us and lead us to follow them or desire them.

Democracy is another word which, like religion, is used in this large inclusive way. Democracy is an expansive term, its political

aspects being only one part of its larger meaning. These words, religion and democracy, are then used in the sense of an outline for our deepest thought and desire, and their meaning changes as life and experience, both individual and social, develop. Individuals will have for the most part some such general outline by which their lives are steered. Do groups have the same? May the settlement be said to be religious? That is, does it act with a common motive, is there a common inspiration, a common belief? Or is the settlement a group of individuals, each animated by his own belief and leading his own life unrelated to the others of the group?

In view of the fact that the settlements contain many persons who are identified with religious bodies and many who are indifferent, and some who are opposed to organized religion, one must attempt to see if any characterization such as religious or irreligious be suitable. One might add together the number of all those who are Presbyterians, Unitarians, Methodists or Roman Catholics in the settlements in the United States, but if it should prove that there were 480 Presbyterians as against 390 Methodists, one would hardly say the settlement movement is Presbyterian! One sees at once that any quantitative measure defining the settlement in its relation to basic convictions is quite misleading. Let us rather look at various groups and see what their actual composition is and involves.

Let us examine two forms of homogeneity. We will say that we have a settlement composed entirely of those of one form of religious belief, that all are nominally Presbyterians. But one of these Presbyterians takes his creed historically (that is, does not believe that most of its articles are to be interpreted literally), another is a strictly orthodox believer, another joined the Church as a child and is now totally uninterested in any religious expression. Is there any homogeneity here? There may be, and probably is, but one would not say there was religious likeness, though all called themselves Presbyterians. Yet we might find a Presbyterian group, possibly the very group described, working together, animated by a common belief and having a common aim. Plainly Presbyterianism is not that common element. What is it?

Again we find groups having outwardly every mark of difference in regard to religious or social conviction. We find a group

where there are to be found Presbyterians, Roman Catholics, Methodists, Unitarians and persons who are opposed to all forms of religion. Yet we may find this group to be most harmonious and congenial, working together with a common aim and feeling. What is the common life they lead?

Here it may be well to note that there may be and are settlements that are not properly groups at all, but are mere aggregations of individuals. In this case we may have an aggregation of Methodists, Unitarians, Roman Catholics and agnostics, each one of whom does his own special work faithfully, but whose private conviction leads him to feel little in common with the rest. A similar aggregation may exist where there are varying kinds of social convictions. Such aggregations may find a common basis of work, a kind of *entente cordiale*, that is, there may be pleasantness but no unity. Or, on the other hand, through common experience, a real fusion and community may be developed. In any case, we cannot fail to observe that there can be no profound group conviction or belief that has not been wrought out through experience. Group beliefs are slow in forming and are held tenaciously. It is this that makes the conservatism of democracy.

We see a striking example of group belief in the Church. There we have creeds which would seem to be the test of belief. But, as in the case of those groups which we examined and found to be homogeneous in only a skin-deep fashion, so in the case of the Church, where there is a real belief in common, it is likely to be not the creed professed, but a kind of *sub rosa* creed, the beliefs wrought out in human experience, which, having been put to a common test, have been discovered to be true. Thus it is that real creeds are the product of life itself, and churches must test revelation by life and not life by revelation. Undigested lumps of belief cannot be held by groups. They only appear thus to be held. We cannot fail to see how common convictions arise. They appear as the result of common experience.

The Church often maintains that its social work has an advantage over secular social work through its singleness of purpose. The advantages of group homogeneity are not to be denied. But the claim to this advantage is often made by those very groups which are only apparently like-minded. Thus a group of people all confessing the same faith may claim superiority in being able,

by means of a common point of view, to work more effectively and with least waste. But if it is true, as we have indicated, that group beliefs are wrought out in life alone, then we can readily perceive that the apparent homogeneity of sectarianism is often less real than the actual community of a group with far greater outward differences—that, in fact, the ordinary earmarks of likeness fail to indicate the underlying unities.

But a real unity there must be, otherwise no group can be effective as such, though there may be effective members of the group. To make the work of the group of permanent value that unity must be preserved. There is a sense in which the more varied the individual characteristics, and the deeper the fundamental unity, the more dangerous is the element that fails to solve. The unsolvable lump must be dislodged. The only kind of heretic, then, is he who contravenes the deepest life of the group, and such social heresy must be rooted out.

Before stating the nature of that common conviction which the social group works out for itself, we may note first that in this discussion of a common motive or belief we have considered "belief" either in its religious or in its social aspect. By this we would indicate that we are searching for the deepest thought about life as a whole that is developed by the group. This conviction, as has been noted, may take a religious or social form, or either may involve the other. Secondly, it is necessary to admit that many pseudo-convictions arise based not on experience but on contact with strong personalities or by the simple process of imitation. Thus, in any group where there is a dominant personality holding any point of view very positively, the weaker members of the group will fall in line, and an apparent community will be brought about which is in reality the conviction of one member alone. Various groups are thus often infected or inspired to their detriment or advantage, as the case may be. Such group beliefs are not really to be classed as convictions.

The common creed of the settlement which constitutes its motive power is its faith in democracy as a political system and its serious attempt to realize democracy in social and industrial life. The testimony of the settlements is unanimous on this point, that whatever may be the original bias of the settlement resident, life in contact with the struggles of the working class creates a

lasting sympathy with the aspirations and desires of one's neighbors. The hard conditions under which so large a part of our population live and work will seem unnatural and unbearable when seen day by day, and there arises a determination to do away with such conditions, whatever the difficulties in the path. The settlements whose early leaders were inspired by democratic ideals, thus by their very nature produce democrats. The dominant note of the settlement is, therefore, democracy, and a failure to feel in unison with this point of view is the only kind of heresy for which the settlement can find no place.

What democracy involves, either in the field of religious or of social conviction, is a question by itself, and not under discussion here. To many democracy means a brotherhood of man involving another relationship with the universe as a whole called religion. With others democracy may mean only a fuller and richer appreciation of human society and what it may become. Thus democracy is an inclusive term, and in the settlements, although we find the greatest possible diversity of religious and social opinion, with this passion for democracy there is a common life, sufficient not only as a basis for action, but also as a continual inspiration.

Dissatisfaction with this common ground of democracy as a sufficient motive will come, and does come, both from many religious people and from many who profess a politico-social creed. Neither class will be satisfied till their point of view is actively held by others, and will not feel in sympathy with what they regard as outside their deepest life. On the other hand, both will perceive, as they come closer to the actual life of the settlements, that, whatever their many defects in efficiency may be, they nevertheless are the very fruitful nurseries of faith in the only sense in which that word can have any permanent meaning either in religion or in society.

With democracy as the social settlement's only creed, the questions as to the desirability of a religious or social propaganda come into focus. The questions really mean not what their face value would seem to indicate, but rather this: "Do you in some way give open expression to your deepest common convictions?" As we have seen that the deepest common conviction of the settlement is not technically religious or socially creedal, but rather a somewhat intellectually vague but emotionally profound social

democracy, it therefore cannot be primarily the function of the settlement to hold religious services or to maintain any kind of propaganda. But in some way to express freely and openly their conviction of the absolute necessity for a social as well as a political democracy is incumbent upon the settlements. The form that this expression takes is immaterial.

Finally, it may be asked, is it not conceivable that the settlement group may also have other convictions in common beside that of a belief in and work for social democracy? Is it not conceivable that all the members should be single taxers or Baptists? Certainly, just as all might be interested in trade schools, or boys' clubs. To such groups no free expression ought to be denied. The practicability and desirability of such expression will depend upon local circumstances. The only law to be observed is this—never to contravene the deepest common conviction worked out by the group. This is the test by which the acts of a given settlement must be measured.

This common belief of the settlements in democracy, this religious belief in the largest sense, is beginning to result in a common program, involving the abolition of poverty, an increased consumption on the part of the working classes, an increased physical efficiency, and a new education fitted for the changed social order.

Certain social critics may regard the work of the settlements as "palliative," as "puttering," but no apology need be offered for the many settlement groups now existing in all the large cities of the United States, in so far as they are faithfully interpreting the lives of the working classes and are protesting vigorously against the evil conditions of their life and work.

Nor need apology be made for the co-operation of the settlements with various remedial agencies that are pursuing a constructive program leading to a socialized democracy. Rather should regret be expressed that many of the critics of the settlement are themselves holding aloof from the common task. As for the religionist who does not find religion in the settlement, limited indeed is his view of the actual nature of religion. The only critic the settlement should seriously regard is he who asks for proofs, not of common inspiration or belief, but of efficiency and social utility.

## THE SOCIAL WORK OF A SUBURBAN CHURCH

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Suburban communities have a character of their own which differentiates them from the city or the country town, and they are remarkably alike, whether in the neighborhood of London or New York, Boston or San Francisco, whether composed mainly of laboring people, families of moderate income, or of the wealthier classes. The cause of this common resemblance seems to be found in the influence of the divided interest of the suburban citizen, whose home is in one community and his place of business or labor in another. In many cases the inhabitant of the suburb cannot vote in the city where his business is carried on, and he lacks interest in the village which is for him hardly more than a lodging place. The danger is, therefore, that he will fail to exhibit in either place the public spirit of a good citizen and will neglect to exert his influence for community interests anywhere. He may vote in state or national elections, but he is tempted to disregard his duty as a member of the social body in city or town. He settles down in a selfish and narrow routine which seriously affects his whole life, social, intellectual and religious. Jesse Williams, in the August *Century*, comments as follows on this peculiarity of the resident of the suburb: "He devotes the best part of the day to one narrow corner of the city: the rest of the time, not consumed on the train, is in the still more narrowing atmosphere of the suburbs. He neither gets all of the way into the life of the city nor clean out into the country. So his view of things has neither the perspective of robust rurality nor the sophistication of a man in the city and of it. His return to nature is only half way; his urbanity is suburbanity. Much of our literature, art and especially criticism shows the taint of the commuters' points of view." The suburban community cannot, as a rule, compete with the city in its provision for the intellectual life or for the healthful amusement of its residents. The city must be sought for the best of both. Nor are the sympathies of suburban residents appealed to by the need of the very

poor and by opportunities to labor in their behalf. For the very poor are in the city. Isolated towns in which men both live and labor develop a community consciousness which is largely lacking in the suburb. In such towns rich and poor, employer and employee, live in such close proximity that social needs are in some measure realized by all. In no place, on the other hand, more than in the suburb, is it true that "the one-half does not know how the other half lives." Intense poverty is infrequent in the suburb. When it does exist it is in some hidden corner, unrealized by the great majority of the neighboring population. There is thus little appeal to the sympathies of men from the sight of suffering and the cry of distress. The danger is that men hear no call to any kind of social activity and that part of their nature lacks healthful exercise. True, the tramp and the beggar knock at the door of the suburban home, but it is the woman, not the man, who answers, wisely or unwisely, the appeal. The tendency, then, of the suburban community is to devote itself to selfish interests, keeping its evenings for a limited range of amusements, card parties and dances, and confining its activities to clubs, women's clubs and men's clubs, which exist mainly to minister to the pleasures of their members, rather than to promote growth or service.

But over against these disadvantages there exists one great advantage. In suburban communities the Church is the one unifying influence. Probably it is not true that the churches of the suburbs are stronger than the churches in the neighboring city. But it is true that a larger proportion of the citizens in suburban communities go to church than in the city. Mr. Booth, in his "Labor and Life of London," declares that "in London the poor (except the Catholic poor) do not attend service on Sunday," and "the working man does not come to church." But "the residents of the suburbs crowd their churches and chapels, and support with impartiality and liberality all forms of organized religion." Mr. Masterman compares five suburban parishes with one London parish equal to the five in population, and finds that in the suburban parishes twenty-nine per cent attend church, while in the London parish there were but six per cent. No figures are at hand with which to compare conditions in American suburbs, but the statement will doubtless be accepted by anyone who has observed conditions, that similar facts hold true in this country. A consider-

able proportion of the population of suburban communities attend church. But here again the danger is that the suburban influence will tend to confine the activities of these church attendants within comparatively narrow and selfish limits, the cultivation of a comfortable religious self-satisfaction. It is apparently the case that one Sunday morning service measures, for a large proportion of the people, the limit of activity even of those who do go to church. Nevertheless, it is the Church alone which succeeds in getting the people together in any considerable number and with any frequency, in these suburban communities. Obviously, then, the Church and its ministry enjoy a great opportunity, and upon them is placed a great responsibility. The Church is the strongest social organ in these communities. If anything is to enlist the social activities of the men and women, it must be the Church.

And the word church is employed intentionally to represent the whole religious organism of the community. For if the social activity is to be best developed, it must be by the united effort of all the religious organizations. Especially in such a community should the churches co-operate, not only in order to counteract that cliquishness which will otherwise inevitably exist, but so that they may effectively minister to the whole community and enlist all its members in such common activities as are desirable.

What are some of the social activities in which suburban churches may be engaged? Doubtless this is a problem to be decided in each community by local conditions. But it may be helpful to consider what has been accomplished in certain places.

Let us take, for example, a town where there is no local paper devoted to the higher interests of the people. It is feasible, for this has been successfully accomplished, for the ministers of the different churches to constitute themselves a board of editors to conduct a periodical in which the religious, educational, political and social welfare of the community shall be discussed. In one suburban town of seven thousand inhabitants such a paper, published monthly, was carried on for several years by the ministers of the churches, until the citizens were ready to take in hand and support a weekly paper of similar high standard. This paper became the medium through which the most public-spirited citizens appealed to the community for any kind of desired improvement. Not only were the interests of the churches considered and fos-

tered, but by this means the false barrier which too often exists between the Church and the life of the community was broken down. The idea at least was promoted that whatever was for the best life of the people was a matter in which ministers and churches should be concerned. Nor was the co-operation of the ministers of different denominations in such work without effect in fostering harmony among the members of their parishes. And of exceeding value was the opportunity thus offered to enlist the services of the ablest men in the community, gaining them a hearing and spreading their counsel far more widely than otherwise had been possible.

By similar co-operation an organization may be created for the alleviation of such distress as may occasionally occur. For while in such communities there will be no large number of very poor people, yet there may, many times, be need of providing temporary assistance, sufficient to tide over some particular experience of distress. Fire may destroy the dwelling and clothing of a day laborer and his family, who would not ordinarily need assistance, or sickness may overwhelm a household. It is well if there may be in a community at such a time a Friendly Aid Committee, able to provide clothing at once out of its stores, or to furnish the services of a trained nurse. Such a committee, also composed of members from the different churches, would guard against imposture, prevent injudicious assistance that would pauperize those aided, and in general act in the small community in some such way as do the Associated Charities in the large city. Where the person to be assisted is a member of one of the parishes proper officials of the church concerned may be notified, and thus aid may be assured and extended in the quietest and most judicious manner. A district nurse, employed under the direction of such a committee, can be of very great service in any community, giving counsel where other service is not needed and standing ready to help in any emergency.

One of the most encouraging signs of the times is the spread of the village improvement or town betterment movement. This is not a matter of mere esthetic or financial interest, but concerns also the moral welfare of the people. For neatness and the love of beauty do not live in comfortable company with rowdyism and gross vice. One of the strongest influences in some towns against admitting the liquor traffic is the knowledge that the neatness and

beauty which have been fostered for years would be besmirched by such business. The spirit which fosters village improvement is a healthful influence with which to surround children and youth. Ministers, therefore, and the Church, in such ways as are feasible, may wisely instigate and cherish any movement which is intended to promote the beauty and cleanliness of a town. But the modern movement includes anything which is for the betterment of the community, the enrichment of the public library and its use as a social center, the promotion of a good lecture course, the purchase of a public playground, the development of school gardens, the placing of historic memorial tablets. All of these and other similar efforts which are for the welfare of a community should receive the earnest support of the ministry and the churches.

One of the strongest influences in forwarding the social work of the Church is, undoubtedly, the men's club in the church. Here is an organization which has sprung into vigorous existence in recent years and is multiplying with amazing speed. It is especially adapted to the suburban church. Here are men of ability, business men, professional men, young and old, the most important latent force in the community. How shall their services be enlisted? The men's club answers the question. It is not technically a religious organization; that is, it does not exist primarily for the purpose of leading men to study the Bible, or inducing them to speak on religious themes in the meetings of the Church. It is primarily a social club. It gathers the men together and enables them first to become acquainted with each other and then to act together for any cause in which they may become interested. Some of these clubs have a beneficiary feature and hold a portion of their dues in a fund for the benefit of their members in case of sickness or death. It would seem that such a plan might wisely be more widely adopted. "Permit me to ask," says Dr. Reuben Thomas, "whether every Christian congregation ought not to be a mutual aid society? Why should men and women who want to make some provision against sickness and death and to secure old age pensions be obliged to join fraternities outside the churches? Why should they have to become Freemasons and Foresters and Odd Fellows and I know not what else in order to get the provision they need? Why should not the mutual aid of which I have been speaking organize itself into some practical force as a part of our Church

life?" In fact, this form of social activity in the church, especially where there are large numbers of working men, has been very successful. But, apart from this, the men's club may become an agent for imparting information concerning all kinds of social work and for the furthering of social reformation. Men are beginning to realize that the forwarding of the Kingdom of God is not simply a matter of establishing missions and holding religious services. That end is also being attained when men are helping to Christianize social conditions, destroying slums, abolishing sweat-shops, rescuing children from health-destroying labor in mines and factories, diminishing crime; when they are promoting right relations between employer and employee, guiding the conduct of business into fair and righteous ways, cultivating justice, peace and good will among men.

Men's clubs are doing good work in these ways by getting acquainted with social conditions in their own communities, and in the cities in which their members labor, by getting in touch with civic leagues, good government clubs, children's aid societies, associated charities, and other similar organizations. One such men's club in a suburban church devoted all its meeting for one year to gaining a better understanding concerning all the departments of the city with which they were connected, in order that they might better comprehend the local problem of good government. The discussion of industrial, economic and social questions by such men as compose the membership of the congregations of suburban communities is one of the most fruitful methods by which the social work of the churches is promoted.

And in many such suburban communities there is one fact which should never be forgotten. They are largely composed, very often, of men who have moved out from the city to the suburban town. Still more often they are almost entirely composed of men whose business interests are in the city. In each case they owe a debt to the city. The suburban churches should give hearty and generous support to the various kinds of social work undertaken in the metropolis to which they owe so much. They should have a share in the activities of the institutional churches, social settlements, civic leagues, and other organizations which are seeking to promote better social conditions in the city. These organizations are in great need of workers. And the suburban churches are in

great need of work. It is a serious misfortune for any church to lack activities which appeal to the generosity, self-sacrifice and personal service of its members. Let the men from these favored communities, where so little personal work is needed, lend their aid to those in the cities who are staggering under heavy burdens. It is no credit to the Protestant churches that they have so uniformly moved out of the densely crowded sections of our large cities. The error can be remedied only when they who have moved to the suburban churches, where there is so little poverty and suffering, send back some of their superfluous energy to help perform the great tasks undertaken by the heroic souls who remain at the post of duty.

These are some of the ways by which churches in suburban communities may engage in social work for the welfare of others, and at the same time counteract those selfish and narrowing tendencies which, in the nature of the case, threaten their own welfare.

THE SOCIAL WORK OF A CHURCH IN A FACTORY  
TOWN

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The primary mission of a church is the worship of God and the social service of man. The first part of this great mission is not to be discussed in this paper. It is well, however, to bear it in mind, for the church does a noble work when it gives expression to the religious aspirations of the soul, makes clear the sanctions of the moral life, maintains a worthy ideal, and keeps alive the immortal hopes which make us men. The realization of its great ideal necessarily impels it to enter upon the service of man.

There are two ways in which different churches seek to do this service. Some try to build themselves into great institutions or to maintain their authority over the institutions they found. Others endeavor to inspire and urge the men and women identified with them to work for social betterment through institutions and in connection with movements which are not under direct ecclesiastical control. The aim of the one group of churches is to make ecclesiastical workers, the aim of the other group is to make social servants.

The latter was the ideal which the minister had when he became the pastor of the church, which he had the honor to serve for eight years. The community in which it was located was a typical New England factory town. The chief industry was the manufacture of shoes. There were a half dozen larger factories which employed several hundred men and women. There were small stores and markets, and the usual clubs and organizations. The church attendants and members were working people, the business men of the town, and the clerks and men who did business in Boston, and several school teachers. The intellectual and moral character of the place was up to the average standard of such towns. There were four churches, a Catholic, Methodist, Unitarian and Congregational.

The first task that presented itself was the creation of intellectual interests in the life of the young people. From the minister's own experience previously as a workingman he knew full well that

one of the best ways to save young people from the pursuit of frivolous pleasures and to make their leisure hours opportunities for culture, rather than temptations for vain things, was to create in them an earnest desire for the best things of the mind. He addressed them one Sunday evening on the joys of reading, and to his great delight some of them asked him to give them more specific suggestions concerning courses of reading, and methods of study. He volunteered to be their leader and pursued this method: The best essays or books of certain authors were chosen for the month's reading at home. They then met together, had a paper on the life of the author, and a discussion of the selected book or essay. They had nine meetings a year. During the years of his pastorate they studied, in this way, the greater American authors, some English writers of the nineteenth century, some plays of Shakespeare, the "Divine Comedy" of Dante, the history of art, and some of the great cities of the world, as Athens, Rome, Jerusalem, Alexandria, etc.

Two or three results were realized: the young men and women had serious interests in life, they began the formation of private libraries, and made larger use of the public library, they carried new and vital thought into their religious services, and brought their minds to church. The reality of their interest is proved by the fact that the reading circle continues to this day, and has a larger number in it than at its formation seventeen years ago.

The second social task that presented itself was the creation of a sympathetic relation between the forces of capital and labor. This is a difficult problem in a small town, where the employers and employees are attendants or members of the same church, but the difficulty is offset by the opportunity their presence in the church gives the minister. The same conditions obtained there as elsewhere. Some of the employers had had their sorry experiences with unreasonable labor leaders, which made them bitter towards labor unions and working men. The working people had their prejudices against the employers. The problem was to make prevail the kindlier relations of human brotherhood. In a small community it is easier to do this than in a city. The men meet more frequently, are in the same lodges, and go to the same churches. They know one another as human beings as well as industrial classes.

Frontal attack in times of strikes may be necessary now and again. When the community faces a grave moral crisis the preacher must speak or else forever after hold his peace. But these crises are infrequent, and the frontal attack not often necessary. The better way is to take advantage of natural occasions for the enforcement of great truths. No Labor Day ever passed by without the preacher taking advantage of the occasion for the presentation of some phase of the industrial situation and the duties of employers and employees. And the usual ministration from Sunday to Sunday, when one has a social message to preach, affords sufficient opportunity for the creation of a new feeling of brotherhood.

The question of license or no license made its appearance annually. The town had only recently voted no license. It was a hard struggle to make this social gain. The task before the churches and temperance forces and good citizens was the enforcement of the law which was the expression of the will of the majority. This was most difficult. The margin for no license was not large, and there was hope on one side and fear on the other that the town would go back to license. The ordinary officers were lax in their duty and the courts resorted to small fines when convictions were gained.

The first thing was to combine all the men who were opposed to the saloon. It was no easy task to get the extreme temperance folk to concentrate their efforts on this objective. There was much splendid union work of all the churches in the several parts of the town. The leading citizens, irrespective of their church affiliations, united and worked for the enforcement of the law. It fell to the clergy to secure the facts of the violation of the law. It would have been better if the laity had done more of this. Here the social work was not new. There was no special initiative on the part of this church. It worked with others, and asked no questions as to priority of suggestion. It requires much grace to do this. In spite of some local interests, party bosses and cruel cupidity, the temperance problem was solved as far as no license and vigorous enforcement of the law can do this.

The problem of the right administration of charity confronted the church and the minister. The current need for relief was not great, though in exceptional years when there was little work, the need increased. There were, in addition, the usual cases of the

sick, the unfortunate, the children without adequate care, and the persons who needed some help in addition to the income derived from their own efforts. There was an abundance of charitable sentiment and generosity. There were numerous King's Daughters' Circles and large-hearted men in the community. The only need was to direct this in the right way. There was no little overlapping by the circles, churches and individuals. The minister was fortunate enough to have received instruction under Professor Tucker, then in Andover Seminary.

While it was not thought necessary to create additional machinery for the wise distribution of relief, the spirit and methods of the Associated Charities were put into operation with good results to all parties concerned. Another social task was the co-ordination of the church and the other institutions and social forces of the community. This is one of the most necessary things, and yet seldom done. It is also one of the most delicate things to do. The churches are often indifferent, or suspicious, or antagonistic to other social agencies.

There was, in the first place, the problem of getting the church and the lodges in sympathetic relations. Some good people thought these lodges the agencies of Satan. Some in the lodges thought their order the greatest institution in society. These two classes of people make it difficult to coordinate the church and the lodge. The first thing necessary was to see the real good in these orders, the social ends they served and the good work they did to their members in times of sickness and trouble. Whenever the minister had the opportunity to speak, either in private or in public, it was his custom to urge the members to live up to the ideals of their lodges. He never became a member of any lodge, but he was in sympathetic relation with all of them. A kindly feeling between the church and these orders was created and frequently there was practical cooperation in social work for persons in need.

Again, there was the public school, with which the church should be in closest relation. Coordination here was brought about by the recognition that the public school cannot do everything. It is not intended to take the place of the home and the church and the will of the individual. The minister in New England has always felt, when true to the best traditions, that he must stand for the best possible public school. Here, as nowhere else, his calling and

his citizenship have been in close agreement. One was only following in the footsteps of worthy predecessors, therefore, in going to the town meeting and urging adequate school appropriation and fair treatment of the teachers. As a preacher he always rejoiced in the opportunity the opening or the closing of the schools gave him to speak from the pulpit of their service to the community, and to urge the parents to keep the children at school as long as possible, and to fire the boys and girls with the ambition to go through the high school and not stop with the grammar grade, and if they went through the high school to take a collegiate course. Perhaps the fact of his having done the same under much difficulty had some influence in creating a trend toward the colleges, which has increased with the passing years.

The church and the political forces were brought into closer relation. The church could not, of course, enter into relations with particular parties, even though it were the Prohibition party. The church, as an ecclesiastical organization, cannot, or rather should not, enter politics. History has many things to teach on this matter. Yet the social work of the church must in some way be related to the civic duties of men and their organized political efforts. The task of the church is to make the political forces clean and constructive. This is no easy matter. Oftentimes the party leaders are in the church. They are most sensitive to the criticism of their party. It is hard for them to see the faults of their own party, while they readily see the faults of the other.

The first thing to do was preach fearlessly against moral evils in any party. This was the first condition for influence. The preacher must prove his fearlessness of the politician. Then he insisted that the men of his church who belonged to the different parties should do their political duties. He urged their attendance at caucuses; excused them from church services to attend; and frequently changed the hour of church services that he might attend himself. In like manner, he urged the duty of going to the town meeting. While the church did not become a power in the politics of the town, the church people did.

Another task was to get the churches into right relations with one another. The churches in a small town are often kept apart by jealousy, fear, prejudice, family troubles and doctrinal differences. Yet the union of the churches is most necessary for effective

social work. The ministers of the Protestant churches felt the first thing to do was to try to get their churches to know one another better, and they agreed to preach to their respective congregations on a specified Sunday on the good they found in the other churches. The people were surprised at the rich discoveries. It was afterwards easy to hold not only union Thanksgiving services, but also union services on the great calendar days of the Christian year. And on one occasion all the churches, both Protestant and Catholic, united in the interests of temperance, in a great mass meeting, in the largest hall. It was a great occasion, and did much good not only for the cause of temperance, but also for good brotherly feeling. A new spirit took possession of the people, with the result that when the A. P. A. movement struck the town it found only a few supporters. The community was immune to this undemocratic and un-Christian evil.

Here the record of social work for eight years ends.

## SOCIAL WORK AND INFLUENCE OF THE NEGRO CHURCH

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The term "Negro Church" is here used to designate that portion of organized Christian teaching which is conducted exclusively by Negroes among the members of their race. In their Church relations the Negro race is perhaps more distinctly separate from the people at large than in any other important social relation, the mass of them being members of organizations managed and supported entirely by the members of their own race, often with but little co-operation with the rest of the Christian world. Being so separated, there is no institution among Negroes which lends itself to more thorough and profitable study. In this paper I shall touch briefly upon the social work and influence of the general church and of the local church, and shall point out some lines along which more effective work might be done.

### I. *The Social Work of the General Church*

(1) One of the indications of influence is membership. The figures of the twelfth census are not available; but, according to the eleventh census, taken in 1890, there were 2,673,977 communicants of Negro churches, or about thirty-six per cent of all the Negroes in the country, and about forty-nine per cent of those of ten years of age and over.

These figures, however, represent a smaller number than the aggregate Negro membership of the Christian Church in the United States, for many thousands of Negroes were not reported: some, members of distinctively Negro churches, such as Baptists in the North, and some Methodists, and others, members of churches not distinctively colored, such as Episcopalians, Presbyterians, Congregationalists, Catholics, etc., especially in the North. It is probable that forty per cent of the Negroes of the country were members of churches in 1890, and the same percentage may hold for to-day.

(2) *Organizations.*—Churches have existed among Negroes in America from the seventeenth century, and Negroes have had their separate local churches from the middle of the eighteenth century. But the first general church organization was in 1816, when the African Methodist Episcopal Church was formed, at Philadelphia, by sixteen delegates, representing churches at Philadelphia, Baltimore, Md., Salem, N. J., and Attleboro, Pa. In 1820 the African Methodist Episcopal Zion Church was formed at New York by representatives from Negro congregations in New York, Philadelphia, New Haven and Long Island. The Colored Methodist Episcopal Church was formed from the Methodist Episcopal Church, South, in 1870, at Jackson, Tenn. The Baptists formed a general organization called the National Baptist Convention in 1892. There are more than a dozen other minor Negro church organizations. The strength of the principal ones is shown in the following table, taken from the eleventh census and from the Budget of the African Methodist Episcopal Church for 1902:

Denomination.	When Established.	Churches.	Communi- cants, 1890.	Churches, 1902.	Members, 1902.
African Methodist Episcopal.....	1816	2,481	452,725	5,904	762,580
A. M. E. Zion.....	1820	1,704	349,788	4,106	575,271
American Union Methodist .....	...	40	3,475	250	16,500
Colored Methodist Episcopal .....	1870	1,759	129,383	1,649	209,972
Regular Baptists .....	...	12,946	1,384,861	...	1,615,321

These organizations do not differ materially in doctrine and polity from similar denominations among whites. They were formed largely because the white Christians did not permit their Negro brethren to take equal part with them in the feast or sacrament of the Lord's Supper and in the government of the Church. They are governed entirely by Negroes. The Methodist bodies have their general conferences every four years and elect their executive officers. At present the African Methodist Episcopal Church has thirteen bishops elected for life and eleven general officers, the African Methodist Episcopal Zion ten bishops and seven general officers, the Colored Methodist Episcopal Church has seven bishops. The Baptist churches are independent of any control; but the National Baptist Convention elects officers to supervise various general activities, such as missions, education, etc.

(3) *Work and Influence in Education.*—The most conspicuous

general social work of these churches is in education. The Church was the pioneer in the educational field among Negroes. The first school established for higher training of Negroes was Wilberforce University, in Ohio, in 1856. In 1863 this school became the exclusive property of the African Methodist Episcopal Church, and its first president was Daniel A. Payne, a Negro, who was forty years a bishop in the African Methodist Episcopal Church. Since then this church has organized an educational department and spent nearly two million dollars for the education of the race. Most of the leaders in this movement, and the founders of the Negro schools named below, were ex-slaves, and many of them came to manhood without the ability to read and write. The attempts of these people, utterly unused to culture, and knowing chiefly by hearsay the value of education, form one of the brightest pages of the early history of the South after the Civil War. The exact number of schools maintained by Negro religious denominations has not been obtained, but the following list of those established, maintained and managed by the African Methodist Episcopal Church will give some idea of what Negroes are doing through their churches. In 1902 there were 25 schools, having 160 teachers, 51 buildings and 1,482 acres of land, valued at \$658,000, and an average attendance of over 4,500. The principal schools are:

Name of Principal Schools of the A. M. E. Church.	Location.	Established.	Teachers.	Pupils.
Wilberforce University .....	Greene County, Ohio...	1856	20	311
Morris Brown College .....	Atlanta, Ga. ....	1880	17	350
Allen University .....	Columbia, S. C. ....	1880	8	351
Paul Quinn College .....	Waco, Texas .....	1881	8	223
Edward Waters College .....	Jacksonville, Fla. ....	1883	5	220
Shorter Institute .....	Little Rock, Ark. ....	1887	4	110
Turner Normal Institute .....	Shelbyville, Tenn. ....	1887	?	?
Kittrell College .....	Kittrell, N. C. ....	1886	14	214
Wayman Institute .....	Herrodsburg, Ky. ....	1891	?	?
Campbell College .....	Jackson, Miss. ....	1897	117	9
Western University .....	Quindaro, Kans. ....	...	10	214

Beside these institutions, there are also normal and high schools in Indian Territory, Louisiana, South Carolina, Alabama and Georgia; the Payne Theological Seminary, established in 1891, at Wilberforce University, Ohio, and theological departments in Morris Brown College and Allen University.

In most cases the churches are doing the work of the state. They are furnishing very little theological training for their ministers, and but little real college training. Most of their work corresponds to that done in the public graded and normal schools. In Atlanta, Ga., for instance, a Negro church school, styled a college, has over a thousand pupils, most of whom are primary and intermediate grade pupils who really belong in the public schools of the city. But when it is known, for example, that Georgia furnishes facilities for the teaching of less than half of her Negro children, one easily sees why the Church must do the state's work, however inefficiently. In many cases the state and Church co-operate, as in Ohio and Kansas.

In these Negro denominational schools the grade of teaching varies greatly. Wilberforce University, the best one, ranks among the best Negro schools of the country. Its faculty is excellent and its graduates have made the senior college class at the University of Chicago, graduating with honorable mention.

(4) *Other Intellectual Influences.*—The first Negro newspaper of which we have knowledge was edited by a Negro minister. The oldest one now in existence is the *Christian Recorder*, the chief official organ of the African Methodist Episcopal Church, established in 1852, eleven years before Lincoln's emancipation proclamation went into effect. The oldest and largest Negro magazine is also published by the African Methodist Episcopal Church, and was established in 1882. The African Methodist Episcopal Church publishes the following periodicals, all edited and controlled by Negroes: The *Christian Recorder*, at Philadelphia, Pa.; the *Southern Christian Recorder*, Columbus, Ga.; the *Western Christian Recorder*, the *African Methodist Episcopal Review*, Philadelphia; the *Sunday School Monitor*, Nashville, Tenn.; the *African Methodist Episcopal Sunday School Quarterly* (junior and senior), at Nashville, Tenn. There are about twenty periodicals published by the Negro church organizations. The editors and publishers of these organs are among the very few Negroes in America who draw high salaries for journalistic work exclusively. Besides these regular organs of influence, there are such gatherings as the National Negro Young People's Congress, held at Atlanta and Washington; the various literary congresses of the African Methodist Episcopal Church, and numerous "Normal Institutes," Sunday

school conferences and conventions which shed enlightening influences. The most largely attended gatherings of Negroes in the country have been the Young People's Congress, the National Convention of the Baptists and the General Conference of the African Methodist Episcopal Church.

(5) *Economic.*—Besides being religious denominations, the churches are great business enterprises. They owned in 1890 over \$25,000,000 worth of property, and to-day own probably \$40,000,-000 worth. They give employment to a large number of departmental managers, called secretaries; to hundreds of teachers, typewriters, stenographers, printers, bookkeepers, clerks, teamsters and general workers, paying salaries from \$3.00 per week to \$3,000 per year. One printing house in Nashville, operated by the Baptists, employs more than one hundred and twenty persons, and does business in nearly every state in the Union. The financial department of the African Methodist Episcopal Church, being the general treasury of the organization, which is an incorporated body, has had for the past ten years an annual income of more than \$100,000 from its "Dollar Money Fund." The Church Extension Department, under a separate manager, or secretary, loans money to churches for building, buying or repairing, and thus saves the local churches from large interest and fees which they must sometimes pay, and, at the same time, keeps interest and profits inside the organization. The Connectional Preachers' Aid Association is an insurance society principally for the insurance of ministers and their families. Being co-operative, it hopes to make better terms than ordinary insurance companies. The Sunday School Union publishes all the Sunday school literature of the Church. This literature is written, printed and sold by Negroes.

At the General Conference of the African Methodist Episcopal Church in 1904 the bishops sent forth a signed statement that in the African Methodist Episcopal Churches for one year (1903) the amount of money raised was \$3,679,471.06. If this be true, then the contributions of Negroes to Negro churches must be about \$10,000,000 per year.

(6) *Political Influence.*—It is thus seen that the Negro Church is the largest and most powerful institution among the race to-day. The Negro bishops as a group are without doubt most influential members of society. It is but natural that such an organization

wields much political influence. There is, however, no political machinery in the Church. But it is possibly not mere accident that the two Negroes who hold the highest political positions in Washington are very active members of the two largest Methodist organizations. Cut off, as Negroes are, from free political activity in the states where most of them live, there can be no doubt that many of those who might have entered the politics of the state have tried to satisfy their political ambitions for leadership in the Church. This one result of disfranchisement of Negroes is not calculated to make these great democratic ecclesiastical bodies more circumspect in the quality of their leadership.

## II. *The Local Church*

The chief work of the Methodist denominations has been the building of a strong central organization, and much that might have been hoped in the way of social work by the local church has been omitted. On the other hand, the very independence and isolation of Baptists has retarded their social work. Preaching, teaching and prayer have been the principal work of the Church, except as it was forced into other things in order to sustain itself, such as giving concerts, sociables, etc., not so much for the social uplift, as to raise money to carry on the religious work.

(1) In relation to the community, however, all churches do not stand alike. *The rural church* is perhaps the least influential from the social point of view. The people are far apart and are generally densely ignorant and poor. The demands of larger centers are so great, and the compensation of the rural churches so small, that, as a rule, well prepared ministers are difficult to obtain. In only a few cases are there more than two services per month, with now and then a poorly attended prayer meeting. The pastor is often a non-resident, and if a resident must give his attention chiefly to farming or some other occupation. There are some notable exceptions, where rural ministers are well equipped and are able to do good work on Sunday and in the homes of the people during the week, but by far the majority of rural Negroes, so far as higher religious, ethical and social training is concerned, are quite neglected, and here the Church has least real influence.

(2) *The Small Town*.—Here perhaps the Church is strongest

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in its influence. In the small town generally every one who lays claim to respectability is a member of the Church, or at least attends it. Often it is the only public place owned by Negroes or entirely at their disposal. It serves, in consequence, as the place of general meeting, a kind of general social club, with many minor organizations. It is the amusement bureau and the general censor of things social as well as religious. The pastor and his wife are generally the social leaders, and if they be of intelligence and high purpose, wield a most helpful influence. The church serves as the place for the introduction of strangers; it finds, presents and encourages new talent in music, dramatic art and other fields of endeavor. To the pastor is often due the sending of the bright young girls and boys off to high schools and colleges. The church serves as a kind of bureau of charities. In an unofficial way it cares for the sick and makes provision for the poor who die and the orphans. Attached to it are often benefit societies, orphan homes, and families who will take orphaned children. In the South the minister in the small town often takes the important place of the Negro lawyer. He stands for his people in court and between them and their white neighbors, and in times of racial trouble is a most valuable person in helping to restore order. Because of this influence of the church the minister wields influence in politics and business to a very great degree. He is administrator of estates, bondsman, member of boards of directors, etc. The first independent Negro bank was started in Montgomery, Ala., by an energetic Baptist minister, who, because of his position as pastor of a church, had been frequently called upon as an administrator of funds of various kinds.

(3) *The Large City.*—The Church is dominant in the small town largely because of its monopoly. In a large city things are different. The Church has no monopoly; there are larger and finer auditoriums than it can offer; there is better music than its choir can give; there are better trained men than its pastor; there is more or less of a breaking away from the traditional theology. There are one-cent newspapers, five-cent theatres and a lack of home restraints. There are public high schools, well equipped; free lectures, free libraries. There is, above all, the hard, nerve-racking struggle for existence; a greater difference between rich and poor; and for Negroes, there is often unsteady employment and

high rents. The saloon is often dominant in politics, and the forces of vice can be of more immediate pecuniary aid to the poor than those of the Church. In many cases, instead of having a monopoly on the Sabbath day, it must compete with theatres, skating rinks, baseball games, saloons, pool rooms, race tracks and amusement gardens, as well as with Sunday labor and Sunday picnics and society functions. Still, it is exactly under these conditions that we have the largest and apparently most successful Negro churches. In New York, Chicago, Philadelphia, Baltimore, Washington, New Orleans and other cities there are Negro churches whose membership is from 1,000 to 2,500 persons, and in more than one of them scores of people are found standing every Sunday. While many are complaining of not being able to reach working men in the large cities, Negro churches are composed almost entirely of working men, and there is not room enough. In Chicago, for example, in certain districts, Negroes have bought, since 1900, seven churches formerly owned by whites, paying as high as \$30,000 for one of them.

The large Negro churches are filled, not because of social work, but almost invariably because of the personality of the pastors and their peculiar method of preaching. As a rule, these churches have men of strong and magnetic personality. They know their people better perhaps than any one else, and know what will draw them. They seldom lack a large following. But in many cases the following is only personal, and with a change in pastors there has often been an almost entire change in personnel of the congregation.

These churches have, one would think, a very large opportunity for social work. But there is but little systematic work of that sort among them. They give alms, help bury the dead, care for the sick, take part in politics, have numerous concerts and entertainments; many have social clubs; some have libraries, and all are to some degree employment bureaus. They do an immense amount of unsystematized charity and social work, but it is largely done to secure money to pay Church debts and not for the social uplift. These churches are run chiefly on the small town church plan, with everything proportionately greater than in the small town. The ministration is chiefly of the same sort as in the small town; but the city minister is as a rule the superior. The result is that the

great mass of Negroes who are migrating to the large cities (and twice as many Negroes as white in proportion to population are going to the large cities) are attracted to the Church, which is a part of their old environment transplanted to the new place. They join the church and fill it. But as they become accustomed to the life of the city, as the new factors begin to influence their living, they begin to fall away from the Church. But this falling away goes on unnoticed by the casual observer, who sees only the large congregations gathered each Sunday. The fact is that as fast as the old members fall out newcomers to the city take their places, and they are not missed. A good illustration of this is afforded by one of the largest Negro churches in Chicago, which six years ago had about 1,300 members; during the six years over 1,800 new members were received, but at the present time it has about 1,500 members. The other 1,600 are accounted for by a few deaths and removals, but chiefly by the dropping out of those who have felt the force of the new city environment. In the same city a pastor of a large congregation said that after being away from the church three years, he finds upon visiting it that very few of the faces are familiar to him. The large accessions to the churches are from the newly-arrived immigrants.

One easily sees that there is an increasing and largely untouched problem of the old inhabitant and the native born city Negro. Of this latter class—the native city Negro—there are not large numbers. At present the city Negro is chiefly the Negro born in the rural districts or the small town. Only a few churches have, therefore, attacked the problems of the real city Negroes. Seven years ago the African Methodist Episcopal Church made a definite attempt to minister to the city environment through the specially established Institutional Church in Chicago. As the name implied, the object of this church was to so combine social and religious work as not only to reach the newcomers to Chicago, but all classes, and to serve its local community regardless of the church affiliations of the individuals making it up. Its ideal was that of social service rather than emotionalism and mere unorganized enthusiasm. But from the beginning there was a clash of ideals, and the undertaking was looked at with scant approval by those who still held the small town ideals.

That the wisest of the leaders of the Negro churches in the

large cities see the need of ministering to the larger social needs of the Negroes who flock to their midst there is increasing evidence. The following sketch of one church which has been foremost in social work in Philadelphia will illustrate a tendency. The church is the Berean Presbyterian Church, established in 1880. Its pastor and founder is a graduate of Oberlin College and Princeton Theological Seminary, and was for two years a graduate student at Yale. His church has been from the beginning outside of any one of the city's "black belts," but its work has reached every portion of Philadelphia. Besides its regular church, Sabbath school, missionary and young people's religious work it has attacked in a most sensible and admirable manner some of the economic problems of Negro city life. In 1884 its free kindergarten was started and has been maintained ever since. In 1888 the building and loan association was started to give assistance in one of the most important phases of Negro city life. The association has now over 550 members and has issued 6,558½ shares of stock; has assisted in the purchase of 145 homes at an average value of \$2,100; has paid back to stockholders \$84,450 on matured stock. The present assets are \$122,326.80, while the value of real estate owned by stockholders and acquired through the association is \$304,500. Not only the housing question has been thus successfully dealt with, but the work question—probably the most serious problem of the city Negro. One of the Negro's chief difficulties is lack of training and lack of opportunity to secure it. To meet this, the Berean Manual Training and Industrial School was established on a small scale in 1899, enrolling fifty pupils the first year. Now it has more than two hundred pupils, and gives instruction in carpentry, upholstering, millinery, practical electricity, plain sewing and dressmaking, stenography, cooking, waiting, tailoring and some academic branches. There are twenty officers and teachers, more than one thousand students have attended and seventy-five have graduated. Another activity has regard to securing work. In 1897 the Bureau of Mutual Help was established, whereby employer and employee could be brought together without extra expense to either. Through this bureau many workers in domestic service and many housekeepers have been benefited. Another step in this direction was made in 1906, when the Berean Trades Association was formed to seek out and aid Negroes qualified in the skilled

trades. Besides these activities, there are the Berean Seaside Home, a resort near Asbury Park, N. J., for respectable colored persons; the Berean Educational Conference, established in 1900, and the Berean Seaside Conference, established in 1904. All of these activities grew out of the work of the Church, are fostered by it, bear its name, but are separate and distinct from it, making it possible for any one to secure benefit from them without obligating him to the Presbyterian creed. The object seems to be to serve men, rather than to get members, and though the church proper has only 250 members, its solid influence has been seen in the lives of thousands of citizens who have been helped to respectability and godliness.

### III. *The Need of Social Work*

The necessity for social work among Negroes does not need to be established. Take Philadelphia as an example, with its 80,000 Negroes. Half of these are without home attachments, and many of them live in furnished rooms. Here and in the vicinity are 40,000 domestic servants more than half of whom are women. Here is an excess of women and an unusually large number of unmarried persons. On the work side there is need for training, and much of it; there is need for opening opportunities for trained Negro men, many of whom have the doors closed to them merely on account of color, and there are a hundred other needs. On the leisure side there is the amusement question. The dance halls and the pool rooms are far more popular than the Sunday school or the class meeting or Christian Endeavor, and the dance halls and pool rooms are as a rule in the hands of bad men. The church concert, which is so popular in small towns, is not attractive when compared with the cheap theater; the saloons are open from twelve to eighteen hours a day, providing music, lunch, reading matter, tables, toilet, telephone, pen and ink and many conveniences to this homeless city lodger; but the church is closed tight, except for about one hour during the day—the pastor's office hour—and two to three hours at night. On the physical side, there is no gymnasium for 40,000 Negro men in Philadelphia, and the Young Men's Christian Associations of most large cities bar Negroes from their gymnasiums; there is no swimming pool, and at least 20,000 Negroes in this city bathe in wash basins and small laundry tubs. Then there

is the great social danger in the transition from small town and rural life to city life, which threatens the moral ruin of those making the change.

I do not urge that Negro churches should go into the dance hall, pool room, gymnasium, employment bureau, trade school, night school and bath house businesses, but, having the ear and heart at least of the newcomers, the Church, with its leaders, who have the confidence of these people, can do much to better conditions. It can do so first by realizing its situation in a great city and the transition through which it and its members are going, by always holding up and contending for the highest religious and social ideals, by helping the municipal government to see its social duty and creating a desire for higher things in their communicants. Next to the teaching of high ideals, the churches can put some of them into practice. There is no doubt that the Church must revise its teaching regarding amusements and adopt not merely a negative but a positive position. The Negro church in the city might well take lessons from the Young Men's Christian Association.

There are, however, many obstacles to the best social work. In the first place, there is the rapidly growing Negro city population, causing churches to be easily filled and thus blinding many to the lack of real progress. Then there is the poverty of the Negroes, who already contribute enormous sums to their churches, many of which are greatly in debt. The cost of active, systematic city social missionary work is practically prohibitive. Another hindrance lies in the difficulty of securing co-operation between the various denominations. The Baptists keep largely to themselves, the African Methodists to themselves, the Zionists to themselves, while the Presbyterians and Episcopalians are largely working in isolation from the rest. Concerted action, such as is needed in a great city, is almost impossible. Another difficulty is the religious ideals of the mass of Negroes, which are chiefly emotional and connected so much more with heaven and hell than with earth and daily life, that they look with dissatisfaction upon anything in the Church which merely pertains to earthly affairs, or in which emotional enthusiasm does not predominate. This is the problem which is most difficult for progressive Negro ministers in charge of large congregations. Another difficulty, especially in the Methodist churches, is the brevity of the pastor's tenure. The itinerant

system makes any extended social work impossible; hence there is probably less of this work in the local Negro Methodist church than in any other.

In the rural districts the need is chiefly for men and leisure. For a long time to come these men must have other support than that which the poor communities can give them. Otherwise, they will not be able to exist. As a rule, Negro laymen are receiving more and better educational training than Negro ministers. The churches themselves put ten times as much stress upon general education as upon the education of their ministers, if we are to judge from the financial aid given their theological and other schools. The lack of special training, together with the increasing opportunities for Negroes in other and more lucrative employments, threatens to make the ministry, and consequently the Church, proportionately weaker, socially, if not indeed spiritually, in the future than it has been in the past.

## THE CHURCH AND PHILANTHROPY

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To outline the functions of any organization and to fix their exact limits would be difficult. It is better, perhaps, that lines of demarcation cannot be definitely and accurately drawn. An efficient organization must be capable of such adaptations as will enable it to meet the needs and to profit from the opportunities which each new age thrusts upon it. Stereotyped forms cause endless harm and hamper progress. They become obsolete and must finally be discarded. Our institutions must remain elastic; otherwise their capacity for good declines. What have the custom-bound nations of the earth taught us, if not the need of this very quality of elasticity to render effectual the work of human agencies striving to attain certain specified ends? The Church in its relations to society and to philanthropy has developed a set of problems to which mathematical rules cannot be applied and which must be studied in their relations to present, not past, social conditions. Whatever be the current opinion in regard to the special mission of the organized Church or to the advisability of its entering the varied forms of philanthropic work which it has undertaken, one rule of action cannot be violated without its becoming the subject of legitimate reproof. This rule requires the efficient performance of the services it has volunteered to render. Unfortunately, the philanthropic work of the Church is precisely the department against which serious charges have been made which indicate tardiness to comply with the recent demands of progress.

The medieval Church provided the starting point for the present attitude. When scientific method was opposed and untaught, wasteful and incongruous measures were naturally adopted. The kindness and philanthropy born of impulse and pure sentiment do not abolish or allay distress. In the middle ages European countries suffered constantly from the plague of indiscriminate, emotional and irrational giving. No wonder that the mendicant was emboldened in the practice of his deceits!

Two important ecclesiastical agencies for the administration of relief had sprung into existence—the parish church and the monastery. The latter institution proved particularly to be a hindrance to that vast army wavering on the borderland of independence and self-respect. The world has been learning that when almsgiving has for its chief purpose the benediction of spiritual peace to the donor its efficacy is sadly marred; but the horizon of the monk was little beyond the circle of self. A large dependent class, therefore, arose and spread out over the regions commanded by the monasteries. The social parasites drifted to the rich valleys and localities with ample capacity for supporting them, and preyed with impunity upon an indulgent people. The neighborhood of London, Rome, and many regions of west Germany were especially affected. The dissolution of the English monasteries during the reign of Henry VIII first opened the eyes of a blindfolded people to the actual conditions prevailing in their own land. Professional vagrancy began to be understood. In fact the Reformation unconsciously mirrored forth many of the vicious results of inconsiderate almsgiving, much to the benefit of mankind. The parish church likewise had not grasped the scientific principles of relief and frequently blundered as opportunities were given. As the civil power separated itself from the ecclesiastical machinery it began to organize more effectually the different systems of relief. Where the priest, however, was still invested with the civil power in respect to relief measures this separation unfortunately was not accomplished. The growth of nationalism checked the Church somewhat in its indiscriminate giving. The doles meted out to foreign wayfarers and undeserving strangers were diminished, and thereby the subjective influences operating in favor of more rational methods were increased. The ways of the village preacher whose "pity gave ere charity began" became less common although continuing to usurp a large portion of the field.

The Reformation, on the other hand, complicated the problem of philanthropy, and from its intricacies the Church has not yet disengaged itself. Protestant emphasis upon faith as contrasted with works, upon the next world instead of this one, upon spiritual or soul-life and the measurable disregard of the material which it induced, together with its emphasis upon the rights of individuals—prevented the new sects from perfecting rational systems of relief.

Problems were too numerous and could not all be solved. The growing spirit of democracy gathering impetus from the lessening subjection to authority co-operated to hinder the installation of definite long-sighted and permanent aims. The Church accordingly failed to study faithfully the influence of giving upon the recipient of alms, but its emergency relief measures were less harmful than those calculated to give permanent aid.

These are among the causes which have united to remove from the sphere of the Church certain classes of relief problems; for example, the care of defectives, of which the state has almost complete charge at the present time. A vast field is, however, yet open to the operations of the philanthropic work of the Church, and the present wide ramifications of its labors is still an astounding fact. Even a volume could not adequately cover the ground, and in this paper the author proposes to point out certain features only: The Church in its relation to material out-door relief and to constructive work.

It has sometimes been observed that the relations between the churches and efficiently controlled charitable societies are not altogether friendly. The causal influences to which we have called attention have, however, not yet ceased to operate, and due weight should likewise be given to the spirit of conservatism which dominates the church. Certain modern experiences would indicate that the officials and workers in philanthropic societies are sometimes animated with motives repugnant to the principles of the Church, but do we find group infidelity among the social workers of to-day? Is it true that they are anti-religious and unsafe guides likely to follow forbidden paths? Happily Rev. W. D. P. Bliss answered this question so impressively some time ago that the reply may bear a partial repetition here.<sup>1</sup> Out of 1,012 workers in regard to whom information was sought, 753 were reported as having church connections—74 per cent of the entire number. But the facts relating to 134 were not reported. If any of these were communicants a larger percentage would obtain. Of those reporting from charity organization societies 92 per cent were church members; social settlements followed with 88 per cent, while other societies showed somewhat lower figures. It is interesting to note that the group most inflexible in method heads the list. The same writer also

<sup>1</sup>See *The Outlook*, Vol. 82, pp. 122 ff.

ascertained interesting facts in regard to the proportion of membership in the various denominations and its relation to the numerical importance of the entire denomination. Worked out upon this basis the Protestant Episcopal Church with 20 per cent of the social workers should have contented itself with 2; the Presbyterians should reduce their quota from 16 to 5 per cent; the Congregationalists need 2 but have 16 per cent, while the Methodist Church with 14 per cent ought to have 20, and the Baptists with only 6 are entitled to 17.

These figures are a rough indication of tendencies, although they must not be accepted with their harshness of mathematical proportions as an exact picture of denominational attitude. Churches characterized by certain methods show a preponderance, while differently constituted Churches are weak in their representation among social workers. The cause for complaint is somewhat weakened, however, when due recognition is given to the latter Churches for their valiant service in many lines,—among the pioneers in the wilderness, upon the mission field, in behalf of temperance and even in training men for the ministry, who are subsequently lost to other Churches. Admitting all these statements, one cannot, on the other hand, escape the idea that these figures have their significance. Is it not true, therefore, that valuable resources are being wasted? Shall not the churches give increased attention to the various lines of social activity, study them comprehensively, and utilize their membership to the best advantage?

In considering the actual or attempted co-operation of Church and societies of organized charity, the personnel representing the latter group cannot be overlooked. They are quite uniformly affiliated with some denominational church. They are considered worthy, have good morals, profess high standards of life, and are laboring for a higher level of average citizenship, no less than for the general betterment of human kind. Apart from their life-work they are reputable citizens—and church members. Affiliate them with their labors—there's the rub.

Real co-operation between the Church and modern philanthropy finds its best and most successful example in the experience of the City of Buffalo, New York. The story of this rather novel experiment is a part of the history of the charity organization society of that city for the last ten years. The plan of co-operation

was projected in 1895. Steps were then taken to carry it into effect. Accordingly the city was divided into a large number of districts, 195 having been made. The control of one was to be given to each one of the co-operating churches, 66 districts were accepted. Churches of all denominations combined in this work, including Protestant, Roman Catholic, as well as one Jewish church. Entering voluntarily, they came in the true spirit of co-operation, and much progress has been made within the decade since the auspicious beginning of the movement. In 1906 the number of co-operating churches had risen to 122 and included nearly all the important churches of the city. The changes that have occurred and the advance that has been made may be observed in the following table:<sup>2</sup>

*Table of Co-operating Churches.*

Denomination.	1896.	1906.
Congregational .....	5	11
Protestant Episcopal .....	7	18
Methodist .....	9	18
Lutheran and Evangelical .....	8	10
Presbyterian .....	11	16
Roman Catholic .....	4	16
Hebrew .....	1	1

There has been a decided movement upward in every one of the important denominations mentioned. Furthermore, the minor churches are also represented. What a commentary upon the possible achievements of the Church is afforded by such unified effort in solving problems of philanthropy!

The character of the work outlined for each church is practically as follows: When a needy family is discovered it is at once referred to its own church, the one in which one, or more, of the family hold membership. Perhaps the church does not provide for the family. It is then referred to the church which is responsible for all cases within the district in which the family is located. Relief along denominational lines is given preference so as to obviate causes of friction. This failing, sectarian differences are discarded and common humanity is allowed to assert itself. As a consequence Protestant churches are called upon to minister to

<sup>2</sup>See Annual Report of C. O. S., 1906.

Catholic families, and Catholic churches to members of the former denominations.

The district church is invested with three chief duties: Care of the neglected, the giving of relief, and the furnishing of district visitors. The district of which a single church is given charge is comparatively small, and can easily be covered under ordinary conditions. Many of the districts comprise the region in the immediate locality of the church itself. This is a comparative advantage, but it is a practice that cannot be uniformly followed. The struggling churches in the poorer sections of the city would be forced to bear a burden entirely disproportionate to that which the wealthy church would carry. A large number of the latter have, therefore, accepted districts where the proportion of poor is much larger than in their own immediate vicinity. A greater equalization of the burden is thus provided.

It is claimed that the Buffalo system has had marked success. Many obstacles have not yet been removed, and successful co-operation among more than one hundred churches of many denominations is no easy task. Among the problems to be solved, according to officials of the society are the following: Weaker churches have proven themselves in need of additional educational work. The records of associated charities could with advantage be utilized to a greater degree. District visitors are needed to carry on investigations. The churches not carrying heavy burdens sometimes become listless and indifferent, and effort is required to retain them as supporters of the plan. Recalcitrant churches must be dealt with, although drastic treatment is avoided. Education, thorough education in the principles of relief—that is the great need and the chief assurance for the salvation of the plan.

Not all of the work of the constituent churches is done in a satisfactory manner. Few organizations or societies anywhere can justly claim perfection in work and method. Investigations by the society showed that in 1904 only about 20 per cent of the churches were more or less inefficient in their services, but these control little more than one-half that proportion of cases. Great efficiency is now secured by a change which has made district visitors directly responsible to the society rather than to the district church. The assistant secretary of the society, Mr. P. E. Lee, has pointed out the definite limitations placed upon the work of organized charity

before the present scheme was inaugurated. First, distrust of the work of the society prevailed; second, concentration of effort was lacking, overlapping was common, and little constructive work was attempted; third, the problem of adequate relief was a difficult one; and fourth, friendly visiting was not practised. In every respect except in the third case, he continues, wonderful improvement has followed; the charity organization is now trusted, many friendly visitors have been secured, and constructive work has multiplied. It has proven an education to all, and some of the churches formerly given to unwise measures of relief have learned the value of methods designed to achieve more permanent results.

Buffalo's experiment is of sufficient importance to justify the lengthy consideration which it has been given. It illustrates how immeasurably better it would be if similar co-operation could be introduced in other towns and cities. We cannot now calculate the loss and waste occasioned by the slip-shod methods often used. In some of our cities many of the churches have begun to employ intelligent effort in reducing the problem of out-door relief to definite far-sighted methods, but little more than a beginning has been made. In a few cities, such as Portland, Ore., and Cambridge, Mass., considerable faithful work has been done. The by-laws of the Brooklyn Bureau of Charities state that among the general objects of the organization is "the promotion of cordial co-operation between benevolent societies, churches and individuals." Founded many years ago, the society has not yet achieved this purpose, and only within the last few years have a considerable number of the clergy availed themselves of this opportunity.

Spasmodic co-operation with organized charity has, however, occurred in many places from time to time. The occasions have usually been those of great difficulties when relief problems pressed heavily upon a community. Such exigencies have been met by a temporary union or co-operation of the various agencies for relief. When these conditions prevail the charity organization society sometimes serves as a "clearing-house" for the other associations and agencies. Business is expedited and the problem handled more efficiently. Such alignments are themselves a recognition of the value of advanced and consistent methods. They are usually temporary, however, the relief problem in ordinary time being for each constituent church at least a comparatively minor matter.

Significant of her attitude is the statement of a member of the National Conference of Charities and Corrections, who, although himself sympathetic with the Church, remarked, in describing such a temporary combination, that "Even the churches and labor unions got into line."

The amount of co-operation among the churches with organized philanthropy is increasing. The words of an eminent authority, however, although written some years ago, still hold true: "To a considerable extent churches pursue an antiquated, short-sighted policy, giving relief from sentimental motives without personal knowledge of its effects upon those who receive it. . . ." Recent experiences in one large American city unblushingly portray the difficulties against which the social worker must contend. In one city it was proposed to bring about greater co-operation between the churches and the charity organization society. The officers of the latter hoped that this aim might be achieved and that better systematization of the work might follow. After due deliberation an appeal was made to a large number of pastors of all varieties of Protestant churches, both large and small, urging the advisability of greater co-operation, and suggesting the inauguration of certain plans of work. Both precaution and discretion were employed in carrying on this campaign. Carefully written statements were first sent to the pastors of the different churches and time was given for reflection over the contents. Later delegates from the society visited the clergymen, brought the matter to their attention in a more personal way and discussed it freely with them. The results obtained through this effort are very significant and indicate what a variety of positions is held and how much remains unaccomplished before churches as a whole will reform their methods of granting relief.

The experiment just mentioned unearthed four distinct classes of clergymen. First, one class was found which already co-operated with the society with rare fidelity, which availed itself of the services and advantages which the society possessed and adopted the methods of the latter as far as was expedient and possible. One of the pastors representing this type of clergymen, in relating his own experiences, pointed out the inestimable advantage of co-operation with a society which studies as its chief business the very problem which in the Church receives but minor consideration. The

story of several cases coming under his observation further illustrates the impregnability of his position. For example, a certain woman coming to him for assistance claimed that she needed a specified sum of money for a certain particular purpose. This amount of relief had formerly been granted to her on the ground of reputed physical disabilities. Prior to a continuation of the case an investigation revealed that no money was ever used for the specific purpose for which the relief was granted. A premium had been placed upon dishonesty until a readjustment of the case placed it upon a rational basis, and the discontinuation of relief emphasized the importance of character. Another woman applicant was reported who was receiving relief for an identical purpose from a number of churches. None of them were aware that other contributors were in existence, nor had pains been taken to ascertain the facts. Great harm had been done, but her case was subsequently simplified and right social relations established. Pastors of this type welcome the greater facilities which the society possesses for a study of its cases and the broader perspective which it is enabled to give. Intelligent relief and assistance and not the debasement of applicants for aid are among the acknowledged benefits of closer co-operation. The utilization of the society does not mean the discontinuation of relief, but it implies discrimination. Pernicious generosity is as sinful as hopeless stinginess.

A group of men asserted themselves who had not come into close connections with the society, but who are actuated by a feeling of obligation to square themselves with the social currents of the day—a fairly hopeful class and filled with potentiality for good. Work and effort will eventually array them on the side of the society, but the ruts are deep and a severe jog or jolt will accompany the new departure. Men of this type, although lacking enthusiasm and fire, agreed to work in the direction of the society's hopes and gave its delegates cause for considerable encouragement. Measured by the actual subsequent results much remains unaccomplished. One clergyman, although very sympathetic, criticized the society for a lack of aggressiveness and for the absence of measures which would promote its publicity. Few people knew about it and its methods. Yet how great would be the benediction to proclaim its own immaculateness in the fashion of the Pharisee and to cry aloud to attract attention! Well may fears arise if such should

be the mode of propaganda. With one other method of judging the work of a society this may well be compared; the attitude of a few "practical business" men who measure the amount of work done and of good accomplished by a statement of receipts, expenditures and cash balance. What is the value of a human soul, of a life restored to conscience and to character? But such opinions do not gain the ascendancy, and a large percentage of the clergy apparently looked with favor upon the movement.

A third class consisted of men who reluctantly agreed to consider the problem and finally to arrive at some conclusion satisfactory to themselves. These men are probably hopeless. The seed has fallen upon stony ground. They are apathetic, though not directly antagonistic, yet we must depend upon the next generation to carry out the hoped-for reforms.

The last class deserves considerable attention. It is not only not friendly to organized charity but distinctly prejudiced against it. A number of pastors were discovered whose attitude augured anything but success for the society in its campaign. These men look with distrust or disfavor upon such efforts. Possibly their attitude is a survival of old fears of the Church against entrusting certain forms of work to purely secular societies. For the pastors of two prominent churches to decline even to consider the problem with the delegate of the society is a position which still remains unexplained. The experience of this charity-worker, exasperating in the extreme, would, if related, only engender and ignite feelings which should be repressed. However, if an attitude of contempt for the society can still maintain itself in the mind of a prominent clergyman, does not the problem of co-operation continue to remain a difficult one? Irresponsiveness is unfortunate; to ignore completely is to condemn to a hopeless situation. Rejection of the plan need not be accompanied by discourtesy.

The prospect is therefore not altogether pleasing. We find the active and progressive pastor educating his congregation into saner methods of out-door relief and reconstructing the charitable work of the Church. In Buffalo he has aided in allaying distrust and in keeping the churches in line. We have sympathetic men not yet spurred on by the new vision. We have something to fear from the social backslider, but the chief hindrance is due to men of the type last described whose influence is commensurate with

their position. When such men belong to the two strongest Protestant denominations the danger is doubly great. The chief consolation gained is that the movement is in the right direction. Only a part remains to face the setting sun.

How do the more conservative churches carry on their relief work? No simple answer can be given, for various methods are employed. A fund—often called the deacon's fund—must first be provided. Strangely enough difficulty is often experienced in securing the needed contributions for this purpose. A dawning consciousness of better things is being felt. Better methods, it is hoped, will obtain funds adequate for the purpose. Custom in regard to disbursement of relief varies to such a degree that particulars need not be given. The matter may be in the hands of the pastor, deacons or other officials, sisters, a particular society of the church or philanthropic committee. Some of our larger churches have several committees, each dealing with a special phase of social work. Were the parties in charge trained in methods of relief, then consistent effort toward progressive work should be expected. Too often this is not the case and the intricacies of the problem are not considered. Sometimes a sort of grim humor obtrudes through the statement included among the table of church activities: Adequate relief provided for the poor within the Church, or Church prefers that no society grant aid before consulting with Church authorities.

Visiting committees or friendly visitors are a frequent feature of Church work. Their ministrations are to the poor to whom they bring cheer and inspiration. Not within the sphere of material relief, it is less provocative of harm and actually promotes good will and better living. These committees need an enlargement of membership, and more families should be visited. Here the ideal of the Church and of organized charity tends to coincide, and earnest social workers will applaud every effort of the Church to use this important measure as a means of enriching the barren life of the poor. It is a step in the right direction, and only needs to be poised by experience and zeal.

This hasty review of the relief work of the Church suggests the question whether preliminary training in this department is required of the clergy to whom the task of supervising the work is eventually entrusted. Having resolved to remain in the field of philanthropy, the Church should logically require from its servants a studious

acquaintance with social problems. What are the facts? Is the theological student versed in the nature of the problems which affect the life, health, social and moral welfare of our people? Has the farmer learned to plow, or the lawyer studied Blackstone? Let us stop to consider.

The progressive language of a writer in one of our theological journals should sound the keynote for the present era. "The ethical nature of the movements now agitating society calls for acquaintance—the wider the better—with sociology." Call it by what name you will, a study of social life and its manifestations is required to fit men adequately for the pulpit of to-day. Many men have not secured this training in the schools, but that is the logical place for the present student to equip himself with the added resources and power which a knowledge of these subjects affords.

A glance at the catalogues of the more important theological schools of the various denominations is less encouraging than we could hope for. But progress has been made. Yet until recently social subjects were quite generally neglected. Attention was formerly paid to Hebrew and Greek, to the biblical literature and interpretation which they involve, to Church doctrine and creed, to ecclesiastical history, homiletics and pastoral theology. The last named subject, it is true, often covered problems of relief and questions of a social nature arising within a congregation. The view-point, however, was that of the pastor and theologian, not that of the sociologist or social worker. Special courses in these subjects were hardly thought of. A study of general principles and a deep insight into the nature of our social ills was neglected. The instructor trained specifically in economics and social science was absent.

In recent years certain transformations have occurred which will leave an indelible impress upon the future curriculum of the theological school. The work of several institutions has contributed to this result. Chicago Theological Seminary, with a broad-gauge social worker at its head, has for years granted to students unexcelled opportunities for studying humanity in the concrete—in the group and in the individual. The theological institutions connected with some of our larger universities have united in sounding their adhesion to the future. The Divinity School of the University of Chicago enjoys the great opportunities of its tremendous city laboratory. Instruction in sociology forms part of the regular

course, and a widely-known sociologist occupies a place upon the teaching staff. Harvard affords certain advantages. More conspicuous has been the recent expansion in the institution first mentioned and at Yale where notable extensions of the department of sociology into the domains of theology are being made. Insistence upon the knowledge of certain phases of practical sociology is demanded. The subject has assumed sufficient importance to justify the demand that every student become acquainted with its elements and have some comprehension of current social problems. Other theological schools give instruction in these subjects, but in some cases a mere smattering knowledge is obtained.

Several classes of schools do not specifically provide for the subject among their courses. If attached to a university or college the seminary may allow it as an elective, or if the school is entirely independent but in the neighborhood of some university, arrangements for the pursuit of certain university work is often provided for; for example, a number of theological schools in and about New York City enjoy such privileges, and their students are admitted to courses in various subjects, including sociology. In such cases, however, the probability that the large proportion of students will avail themselves of this comparatively difficult opportunity is extremely small. If the divinity school has no such course in its prescribed curriculum and is not directly affiliated with an institution which does offer them, the mass of the student body fail to receive this needed training. Recognizing this need, one important denomination has recently organized a corresponding school of sociology for the purpose of training its clergy and widening their grasp of human relations.

Progress has been made, yet some institutions have made no attempt to align themselves to the new movement. What agency, however, is more fitted or adapted to training men and women for the task of solving the problems of human and social betterment? Is a tardy recognition of this fact excusable? Should not the Church lead rather than follow? It is no exaggeration to say that the majority of students trained in theological schools pursued no such courses while attending such institutions, and that the only similar instruction received was while undergraduates, and consisted of elementary courses found in the college curriculum. Unfortunately some men have escaped the training entirely.

Turning to the practical activities of the Church, we find that a multitude of lines of social work have been undertaken, not, however, by a denomination as a whole, but by individual churches. In such pulpits the glorification of Abraham and of David has been superseded by more modern discussions, and these include attention to laws of social service, to the human and ethical problems of city life, to the social needs of a community which will contribute to right and better living, and to practical subjects of many kinds.

The Church has numberless agencies engaged in out-door relief work. It may maintain them itself or receive a subsidy to carry on this work. The City of New York alone will pay out about three millions during the present year to denominational institutions. In all large cities, moreover, many churches, either through the logical expansion of their varied activities, or on account of the influence exerted by the institutional church idea have commenced a comprehensive program of positive constructive social work. Nor is the program of the Church on paper only; living men and women are reaping the benefits of these forms of benevolence.

The philanthropic work which is carried on can be best illustrated by the use of several concrete examples. A certain Boston church, besides the varieties and forms of activity normally found in different churches, engages in the following enterprises: A free kindergarten has been established for little children; a day nursery lessens the task of mothers; an industrial school meets every Saturday morning and the instruction given includes classes in printing, cobbling, millinery, dress-making, sloyd and basket-weaving. A summer vacation school gives certain opportunities, and a school of music permits the study of that art. A total abstinence guild works for temperance reform; free reading rooms, baths, and Saturday night concerts are provided. Free legal advice is given, and an employment bureau is in daily operation. The woodyard, rug-weaving and printing afford an opportunity for the employment of both men and women, if applicant's order is signed by a person who in turn will pay the church. Such work, if faithfully and earnestly carried on, cannot fail to accomplish great good. Another Boston church conducts a tuberculosis class. Instruction by a physician is given weekly. A class for the treatment of nervous diseases is also provided for.

Trinity Church has a charitable society, organized in 1834,  
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a dispensary for women and children, summer gardening, and a house laundry which employs fourteen women steadily, and is a training school for laundry work, using additional skilled labor.

The range of social activity among the Protestant churches of the old City of New York comprises the following features:<sup>3</sup> Social settlements of which at least eleven are, or have been, directly connected with some church; fresh-air work in which about thirty are engaged; fifty kindergartens are maintained; and nearly forty sewing classes; twenty-nine employment societies and bureaus endeavor to help all, or certain classes, of the unemployed, and at least one wood-yard is intelligently conducted. Industrial, trade and manual training schools number thirty or more, and four night schools are in operation. Twenty churches have a gymnasium each, and nearly half of these have classes in gymnastics. Eleven kitchen-gardens are operated and eighteen penny provident funds are reported. Seven day nurseries and two lodging houses are also controlled; besides the forms of philanthropy mentioned, the work includes the operation of dispensaries, clinics, flower and fruit missions, coal clubs, libraries, reading-rooms, baths, summer homes, working classes, laundry schools, burial societies, and athletic clubs. The medical aid and legal aid societies are both represented as well as the soup booth and coffee house. The nurse and deaconess, on the other hand, have formed a definite part of the church organization of some denominations for many years. The variety, amount and precise direction of this philanthropic endeavor are constantly shifting but a large number of churches are gradually being drawn into the stream.

Europe has brought new ideas and methods to our shores. The Inner Mission, imported from Germany, has gained a foothold. In its native land, since its origin more than fifty years ago, it has been a powerful agency for social improvement. Not content with purely religious work, it has carried on a program of amelioration and construction. By adapting itself to American conditions its usefulness here can be largely extended. Last summer an eminent British Methodist layman came here to advocate his plan of using

<sup>3</sup>Charities Directory of New York City, 1907. Also see Religious Movements for Social Betterment, by Josiah Strong, pp. 80-1. Mr. Strong's figures vary somewhat from the above. Although compiled some years ago, they credit the churches with operating seventeen day nurseries, four lodging houses and forty-eight industrial schools.

the Church for social betterment. His scheme related to four measures—emigration agencies to facilitate mobility, employment bureaus, old-age pensions and savings institutions. The wisdom or unwisdom of his plans is little to the point. The value lies in arousing the Church to the new needs which must be met, and the newer forms of social service which must be rendered.

Co-operation by the Church with organized charity has broadened the scope of the former's social activity. Under the new régime, Buffalo has made much progress. The men's clubs of many churches in some of our cities are formative forces for good. If controlled by enlightened individuals the numerous urgent social problems within easy striking distance of the Church are brought to light, and a campaign of education instituted. Common interest in human welfare is increased thereby. The program of one such club for the coming winter includes a discussion of the institutional Church as an evangelical force and as a social center, the relation of the Church to the city's children, and public movements that should be supported. Again, particular societies often interest themselves in some phase of social work, accomplish good results themselves, and sow the seed for a harvest of future effort.

The relation of the Church to philanthropy cannot be adequately summarized in a few words; the details are too intricate; the subject too extensive. Furthermore, shifting relations measured in time and space do not permit an accurate statement. However, an approximate survey of the situation can be given. A great distrust of the methods and work of organized charity continues to prevail. The latter, it is believed, lack sympathy and mercy, are unpitying, and neglect the magic human touch. But does not the personnel of our workers render this position an untenable one? The methods of the Church itself are a legacy of other days. Voices of the past still speak in its councils. Many forms of relief work have been abandoned, but in its out-door labors it still holds a large field. A measurable amount of scientific method is now employed, but to a large extent obsolete and irrational systems are still in vogue. For this reason there are able advocates of the plan involving the withdrawal of the Church from this sphere of charitable effort. On the other hand, if rightly conducted it would give the Church an opportunity well worth the effort. Will she rise to meet the crisis? There would open before her a range of personal influences,

where new men could be formed and characters created. Society will eventually demand right methods or entrust these functions to the most capable agencies. The social training of the clergy in the seminary is not adequate for modern needs, but this fact is being recognized, and theological schools are beginning to conform with the tendencies of the age—but not all of them, yet why not? Should not the ministry and divinity school be a superior recruiting ground from which the vast bulk of social workers could be drawn? Would this were true. Conditions in the country are bad and the rural clergy have not risen to the demands of the situation. Social science still has fields to conquer. The constructive work of the Church is, on the other hand, rapidly gaining ground. It is covering a variety of social activities and adding to the wealth and dignity of life. Our hope is that the churches that continue to slumber may, before it is too late, awaken to the needs of the hour and rush into the struggle for the upliftment of mankind in a way that will accomplish results. The task of the Church to regenerate the human heart still remains; but the formula is not a simple one. We cannot send missionaries to the Mohammedan Arab and also accept the latter's ideal of almsgiving. The relation of the Church to modern philanthropy permits of additional modification.

## EFFICIENCY IN RELIGIOUS WORK

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The money changers were not chided, exhorted, vituperated or petitioned; they were driven from the temple. There were probably those among them who were shocked at the spectacle of religious work directing itself to "politics" and to "sensational reform." But the public which looked on received more inspiration from this applied religion than from a thousand sermons on Christian citizenship delivered under the auspices of the money changers.

The efficiency of Christ's ministry—as distinct from its inspirational power—has received too little attention. Sometimes it seems as if those outside church organizations read the parables with more reverence and greater appreciation than the very expounders of the Gospel. The rigid standard with which the alleged irreligious man measures the avowed religious man is one that could advance religious work incalculably if only religious workers would adopt it for themselves. That measure is the efficiency test—the consistency test—the setting side by side of pretense and practice, faith and work, effort expended and results obtained. The application of this efficiency test to Christ's life and teaching gives that teaching an ever higher place in the lives of men. If religious work is losing devotees, if the Church is losing influence, it is because leader and follower fail to apply the efficiency test to their living, their teaching, their parish work, their Christian citizenship.

New York City pays liberal salaries to hundreds of preachers. In addition, millions are given for Y. M. C. A. buildings, missions, institutional church work, parish houses, etc. In exchange for these gifts, preachers and pastors are to preach the gospel and to organize the forces of righteousness. To the pleasure given by preaching, well-to-do audiences at least apply result tests; if the sermons are uninteresting, the preacher is asked to find another post. To the preacher's personality definite tests are applied; if he is uncongenial, unrefined, uninformed as to "the world's ways" of speaking and acting, he is not retained in a fashionable church.

He may be forgiven if a poor manager, and provided with assistants who can organize clubs and collect funds. But the results of the preacher's sermons upon his auditors, the results of his week-day efforts upon his parish, the results of his ministry upon the neighborhood of his church are not set side by side with his opportunity, and the church deficit computed. If you ask one hundred prominent religious workers what the church deficit is, they will reply "About \$2,500," or "We came out even." Wherever efficiency tests are applied to religious work, *deficit* means not the difference in money between receipts and disbursements *but the difference in results between the moral influence the church might have exerted and the influence actually exerted.*

The need for efficiency tests may be indicated by comparing the thousands of religious workers who are paid to give their entire time to inspirational, gospel service, with the number who are paid to give their entire time to driving out money changers and preventing their return. I spoke recently to a group of pastors on the subject "Social Injuries Caused by Inefficient Government." They had felt that the subject would be more attractive if written "Institutional Vice and Public Officials." I explained to them why I did not wish to speak of vice: that little good ever came of discussing vice unless the causes of vice were aimed at. If vice is regarded as in a large measure due to social, industrial and governmental conditions, then the intelligent, efficient way to reach it is to correct the government and industry of which vice is an unfortunate product. The combined salaries of these pastors, not including any other salaries or church expenses, aggregated about \$100,000. The salaries of all the pastors in their city exceeded \$250,000. This sum was gladly given by their city to insure a constant flow of religious light and inspiration. But not one salary is paid in that city to insure a constant testing of the results upon the community of the constant ministry of this regiment of earnest workers.

After a Sunday evening given to warnings against vice and appeals for a life of chastity, young people go out upon the streets where policemen grow rich by abetting and protecting vice. Young girls go into homes that are worse than the deplorable factory conditions of the week to follow. Overcrowding, underventilation, uncleanness bring them up. Their minds cannot hold, even if they receive, the message given at church because their bodies are weak

and crave stimulant, drug or other excitation. A beautiful sermon, aided by electric lights, will help the tenement girl to live an open, beautiful life. Perhaps, if compelled to choose, the sermon would be better than the electric lights, but there is reason to doubt it. Fortunately, both are possible if pastors will only apply result tests to their work.

The ignorant mother is told repeatedly by newspapers and nurses that her baby dies not because a chastening Providence wishes to touch her heart or hold her hand, but because milk dealers and dairymen are permitted by lax officials—for pay or favor or ease—to sell impure milk. Shop girls know that the tempter most to be feared is not in their hearts but in their working and living conditions. Efficiency in religious leadership requires that these working and living conditions be made fit to work in and to live in. Christ never asked a throng to listen to His message when hungry, in a storm, in a tumult or in the presence of active evil forces. It is inconceivable that He would dismiss a congregation into a saloon or into streets leading directly to saloons violating Sunday laws, liquor laws, the laws of health and of decency. It is inconceivable that He would avoid such subjects as misgovernment, preventable sickness, deficient school facilities, unclean streets, police protection for brothels and gambling dens, on the ground that they were political, not religious.

We can never know what it has cost humanity that Christ's teachings have been made to bolster up such doctrines as that good intention or one step in the right direction will be accepted in lieu of effort and achievement in proportion to opportunity. The parable of the lost sheep, like that of the talents, has been perverted to mean that one is not strictly accountable for the efficient administration of his Christian effort. As a matter of fact, there is nothing in this or any other parable to warrant the belief that it would have been worth while for any shepherd to spend time looking for one lost sheep known to be at the west, if the same effort might have recovered ten lost sheep known to be in the east. The particular case in question was never intended to place in the balance one unit of any kind, whether sheep, dollar, soul or week's work, and teach the untruth that this one unit is worth ninety-nine units of the same kind. The steward who had the use of one talent was condemned, not for hiding his talent, not for failing to bring back

some return, not because he did not try, but because he did not earn with his opportunity at least the current rate, one hundred per cent. The virgins were not permitted to focus attention on their lamps, but were rather censured for having no oil at the particular time when it was needed. The prodigal son was feted not for running away, not for repentance, but in spite of the older brother's goodness fallacy, for the definite act of returning. Miracles were performed, not to show wonders but to meet need adequately, feed *all* of the out-door congregation, *cure* palsy, *raise* the dead, not turn him over in his grave. Dives went into hell, not in that direction or to a sermon about it.

Efficiency tests are now applied to many branches of religious work; they can be extended to all branches. Medical missionaries must know physiology and medicine. They are not chosen for their intention but for their ability to do good. Training schools exist for deaconesses and parish visitors in many cities, who are chosen not because they are good but because they have shown ability to get good results. Preachers must show ability to talk well. Tests of talking are easy to apply. So it is easy to test ability to get together clubs of boys and girls. Whether money enough is contributed, whether each member is doing his share, can and should be found out; it is just as easy to test the work of the Church as an organized body of Christian citizens. If Christian citizens who pass the contribution plate own premises that are being used for disreputable and illegal purposes, the fact can be ascertained by them and by their fellow religious workers. If, within the district of which the church is a center, milk that poisons is being sold, or if streets are dirty and hospitals mismanaged, the fact can be positively ascertained and the conditions corrected. If government officials are padding payrolls, wasting taxes, granting special privileges or otherwise manufacturing dishonesty or criminality, the fact can be proved and stopped. If children are improperly taught at school, and turned out physically, mentally and industrially unfit to do their part as Christian citizens, the fact can be ascertained positively and the conditions corrected.

The American Sabbath is fast losing ground; young people do not attend church as did their parents; even the institutional Church has failed to stem the tide of growing irreligion; young men of large capacities are less willing than formerly to enter the ministry; it is

increasingly difficult to obtain funds for maintaining not only missions but even old established churches. Are these statements true? I do not know. They are solemnly affirmed by leaders in religious work. Whether true or not, however, it is a most serious matter, deserving the kind of investigation that would be given a railroad management whose dividends decreased or whose road bed was greatly in need of repair.

Efficiency tests of religious work have not hitherto been applied sufficiently, because religious leaders have not felt responsible for unsanitary living and working conditions or for misgovernment that causes distress and vice and inability to comprehend and heed the gospel message. The men and women who are identified with religious work could abolish misgovernment if they would work together for definite visible ends in their communities. When they fail so to work together their religious work is inefficient. Whether they do it and what community work is left undone can be positively learned if they will look for conditions that make Christian living unnecessarily difficult for the strong and impossible for the weak.

If the religious worker cares to know about the efficiency of his church or mission or Christian Endeavor society, he will find such questions as the following helpful: Are the streets clean? Are milk shops properly inspected? Do weights and scales defraud the poor of the parish? Are demoralizing influences unchecked or unattacked? Is he exerting any appreciable influence to make the public opinion of the good who desire good government stronger than the private opinion of evil men who desire bad government?

These essentials of the efficiency test are simple and can be applied by the intelligent worker to himself, to the society of which he is a responsible officer, to the church and to the allied Christian forces of his community. The elements of this test are: Desire to know; unit of inquiry; account; comparison; subtraction; percentage; classification; summary. All Sunday-schools have weekly, monthly and annual reports. In most instances these reports show whether the Sunday-school is growing larger or smaller. There is no reason why the same method of analysis should not be applied to the influence of that Sunday-school and to children not attending who ought to attend, to parents not interested who ought to be interested, to evils existing in its neighborhood that ought not be permitted to exist, to community work not done that ought to be done.

The religious world needs as much as does the business world to have the *desire to know* what are the results of its efforts. The unit of inquiry depends upon what the church or church worker is trying to do. Any effort which has no definite purpose and has no unit of inquiry will not be of serious consequence. There are so many efforts that are not yet compared with results and so many units of inquiry requiring religious work that church bookkeepers will be kept answering them for some time to come. If any religious worker has difficulty in selecting the units that should be counted first, let him make a list of the things that worry him, or seem to worry his co-workers or parishioners. If the religious worker is not worrying at all and has no unanswered questions in his mind, that is a pretty sure sign that he is not doing his work efficiently. Goodness, spirituality, religious fervor, should not be permitted to manufacture evil or to waste opportunity to do good. Efficiency tests prevent a worker from undertaking tasks to which he is unfitted; efficiency tests use to the utmost, character, good intention and religious fervor by adjusting burden to capacity and by requiring effort commensurate with opportunity.

## THE SALVATION ARMY—A CRITICISM

By C. C. CARSTENS, PH.D.,  
Secretary, Massachusetts Society for the Prevention of Cruelty to Children.

The extraordinary development of the Salvation Army during the forty years of its existence, not alone in England and the United States, but in many other countries of the civilized world, has stamped it in the minds of a majority of people as a successful enterprise whose policies have been justified by its widespread success and whose work does not, for that very reason, require the careful scrutiny to which other charities should be subjected. How far this popular attitude is due to the worship of success and how far to the attitude of the Salvation Army's officers it is difficult to determine. It is doubtless true, however, that the Salvation Army fosters the impression that this is a different kind of philanthropy to which the usual tests should not apply.

It is the purpose of this paper to question the wisdom of this attitude on the part of the giving public toward the work of the Salvation Army, and to point out certain tests which may very well be applied to any large charitable enterprise and by which the success of the Salvation Army also should be measured.

The contributors, subscribers, or donors to any charity, in short, that part of our community by means of whose gifts an enterprise continues to exist and to grow, and which in the case of the Salvation Army has caused it to grow to national and international dimensions, have a responsibility in any philanthropic undertaking which but few of the donors realize. The donor is not swayed as much as in times past with the benefit he himself derives, but even now his motives are not singly for the interest of the charitable beneficiary; he still considers his own interest or his soul's welfare. This generation has, however, made great progress in applying tests to determine what benefits will result, and it has learned to keep such control of many an enterprise as will ensure its careful administration and adaptation to the needs of the day. In the ultimate analysis the donors to the Salvation Army must get

much of the credit for the good results which General Booth's family has been able to accomplish with the funds placed at their disposal, and likewise must, to a considerable extent, be held responsible for any evils that may have resulted or for their failure to place their money in other hands where it might have done even more good.

Perhaps a philanthropist is still entitled to the privilege of establishing such an enterprise as is dear to his heart and of lavishing upon it his thousands or millions granting that it is clearly for a moral purpose, although an increasingly large number of thinking men and women would place even such individual enterprises under the supervision of a governmental agency. The giving public is, however, less and less ready to give large funds unless they can be placed in the hands of trustees who work without pay and who give an account of their stewardship to their constituency every year in such terms as will make it clear to the contributors where the enterprise stands.

To what extent does the Salvation Army answer these simple safeguards? The work of the Salvation Army in the United States is carried on through three distinct corporations:—The Salvation Army, incorporated under the laws of the State of New York, May 12, 1899; The Salvation Army Industrial Homes Company, also incorporated in 1899; and The Reliance Trading Company, incorporated November 29, 1902.

The organization of the Salvation Army is as follows: Miss Booth is President; William Peart is Vice-President; William Conrad Hicks, Treasurer; Gustav H. Reinhardsen, Secretary; Madison J. H. Ferris, Legal Secretary. The directors are the above-named officers with the exception of George A. Kilbey, who is substituted in the place of Mr. Reinhardsen. This is then clearly not a board of trustees in the usually accepted meaning of the word in charitable enterprises but more like a board of directors of a financial corporation, each director and officer being an employee of the company.

The Salvation Army Industrial Homes Company and the Reliance Trading Company are New Jersey corporations, of both of which Miss Evangeline Booth, Commander of the Salvation Army, is President, and Ransom Caygill, a capitalist, who is not officially connected with the Salvation Army, is treasurer and business manager. A number of the directors of the Salvation Army

are also said to hold a considerable amount of preferred stock of their business philanthropies.

Donors of old clothes, shoes, furniture, magazines, newspapers and books, give them not to the Salvation Army but to a corporation which pays six per cent dividends on preferred stock guaranteed by the Salvation Army. Housewives have generally supposed that the salvage as far as it could be used went direct to the poor instead of being sold for a profit, and that magazines and newspapers and books were distributed to hospitals, prisons and the homes of the poor instead of being baled for profit to pay interest on a loan with which to finance the corporations. Likewise, the profits from the sale of the "War Cry" and the "Post" fountain pens go not to the Salvation Army, but to the Reliance Trading Company.

In England a much more critical attitude has been taken on the part of the general public toward these business philanthropies, and in well-informed circles the financial policy of the Salvation Army has been watched with considerable concern. Under the title of "The High Finance of Salvationism," Mr. Manson, in his recent book,<sup>1</sup> gives a chapter of interesting information regarding the Army's financial history during the last twenty years. The earliest large enterprise of its business philanthropies was the Salvation Army Building Association, Limited, formed in 1884. Its object was principally the negotiation of loans to advance the aims and objects of the Salvation Army. The management of the enterprise remained independent of the Army, and on this account, it seems, trouble arose which led to its liquidation. "The directors were not willing to lend their shareholders' money to the Army on the conditions as to interest or security to which the Army might have been prepared to agree."<sup>2</sup>

In "Darkest England," General Booth had among other plans proposed the founding of a poor man's bank, but when the Reliance Bank, Limited, was founded, the original design of lending money to the "little" man had become altered to that of borrowing money from him. The bank lends money to the Army. In its balance sheet for March 31, 1904, one-third of its apparent assets consisted of "loans on mortgage of Salvation Army house, shop and hall property."

<sup>1</sup>"*The Salvation Army and the Public*," by John Manson, Routledge, London, 1906.

<sup>2</sup>Manson, "The Salvation Army and the Public," p. 76.  
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The arrangement then amounts to this: General Booth is substantially the Reliance Bank, Ltd. As banker he borrows money from the public and lends a large proportion of it to himself as general of his religious organization; as general he receives from public contributions to his corps, money wherewith to pay himself interest in the capacity of lender, and it is this money which enables him to pay his investors their interest at the starting point.<sup>3</sup>

The bank has not been able to find enough capital for the Army, so the Salvation Army Assurance Society, Limited, was incorporated. The bankers of this society are the Reliance Bank, Limited, which again is General Booth. About five-sixths of the society's 293,108 policies in force in 1903 were industrial and 54 per cent of its premium income was swallowed up in management expenses and agents' commissions. As long as investors keep their confidence in business philanthropies that maintain no safeguards but the personal honesty of General Booth and his associates and successors, the enterprises may remain prosperous. But will this confidence last?

The Salvation Army is apparently as much a church denomination as the Methodist Episcopal Church, the Church of Christ, Scientist or Dowieism, with whose doctrine of faith-healing General Booth's Church has much in common. There is this important distinction that the Salvation Army members do not bear the total expense of its maintenance, and therefore the general public is asked to contribute. This "people's church" has a religious and social programme. By means of the latter it has succeeded in interesting a large segment of every other church denomination, and has obtained large funds, part of which are used in the furtherance of its religious plans with which, however, many of its largest donors have little or no sympathy.

The amount of money expended in the religious work of the Army in the United Kingdom during the last fifteen years is estimated at \$30,000,000 while only about \$2,500,000 has been expended upon social work, a ratio of twelve to one. If an accurate statement of each of the two departments of the Army's work could be made, and an accounting for moneys expended in each department could be rendered, any unfair criticism that may now be current regarding the use of the funds gained by means of the

<sup>3</sup>Manson, "The Salvation Army and the Public," p. 82.

"social" appeal, would disappear. So far the public have not been given the proper means of judging of the efficacy of the organization's work in proportion to its cost, and therefore the question naturally arises whether the Army's hesitation to give accurate figures is a necessary part of its plans.

For some years the Salvation Army has published "annual statements" of its three corporations. These contain balance sheets of the various departments of the New York and Chicago headquarters. Annual statements for 1906 were audited by The Audit Company of New York City, 43 Cedar Street, and mark a large advance over those of previous years. They are, however, but a fragment of what the public should have. They give even those accustomed to examine financial reports but a slight notion of what has been done during the year with the money that has flowed into its treasury, and they are quite unintelligible to the average person who may get a chance to see them. No annual report containing an account of the work the Army has accomplished during the twelvemonth is published. No detailed statement of the contributors and the amounts of their contributions or of the detailed expenditures, is made public. To the large majority of the intelligent public, the "annual statements," with their formidable array of figures serve but to hide the true state of affairs of the Army.

The nearest approach to an "annual report" is a little pamphlet called "Where the Shadows Lengthen," published by the Reliance Trading Company in 1907. This contains various groups of statistics, but, with the exception of the Prison Gate Mission, nowhere tells the period to which these statistics apply. If the Salvation Army is not willing to state with accuracy the time during which this work has been done, can it blame the public if the reliability of its figures is questioned?

Important as an adequate and intelligent statement of its work and an annual statistical and financial report is, the Salvation Army should, in the second place, be judged as other enterprises are judged, by the purposes it is aiming to accomplish and the measure of its success in carrying them out.

What and how much is the Salvation Army actually doing with the human beings for whose benefit it was called into existence? As before referred to, it has two aims, to reach both body and soul. Its doctrine of salvation promulgated in large measure in its

daily meetings is, however, not the basis of its appeal to the general public, but rather its social work, and it is because of the Salvation Army's social efficiency that large and small contributions come to its support from outside of its own ranks.

It is not an easy task to get a correct estimate of the work of any large enterprise even where careful reports are available, but in the case of the Salvation Army, with the divergent character of its work in different places, its inadequate statement of results and its unsatisfactory statistics, this is almost impossible. But one can certainly not be blamed for taking a critical attitude toward an enterprise which has stood so much in a class by itself.

We shall prefer to attribute the establishment of the rather shaky business philanthropies and the weaknesses in administration to the necessity of borrowing large lump sums for which General Booth believed the public would furnish the interest through their annual contributions but which he could not hope to obtain as gifts. General Booth undertook a large scheme and his ambitions fostered by the devotion of his staff officers and many of the rank and file outran his resources.

It is, however, reasonable to suppose that a "people's church" like the Salvation Army has reached its position of confidence which enables it to appeal successfully year after year without making full, accurate and intelligent accounting, because it has also on the credit side of its ledger a large measure of beneficent, religious and social work which has satisfied the community's rough-and-ready test in individual cases. The community has learned that while possibly the "Salvation lassie" could not boast of college training or foreign travel, her garb was the symbol of a life of simplicity and devotion; it has learned that the enthusiasm and self-sacrifice and devotion of its men and women, with an optimism that overcomes obstacles, often led them into hovel, gutter or brothel from which others would hold aloof, but from which they would now and then win back some sinking soul to decency and self-respect. Some of its rescue homes for women are among the most effective, and some of its lodging houses for men are among the best that can be found in their class.

But while we give credit for a large measure of self-sacrificing work, is it unfair to inquire what the Salvation Army is doing with a group of more or less clearly defined social tasks, or if its

activities have not run in these channels, to consider what other social tasks it has set itself to do. One of these tasks with which the Salvation Army has come in contact is to find an effective means of dealing with that most unsatisfactory of human beings, the homeless man. With few exceptions, the homeless belong to the vagrant class which live from hand to mouth, avoiding honest toil in every possible way, to whose mischief the officials of railroads ascribe many wrecks, loss of many lives, and untold expense, and of whom police courts are full every day on account of serious or trivial offenses. For at least twenty years the Salvation Army has had these homeless ones in their lodging houses and has provided them bed and board at nominal expense. The physical and moral condition of thousands has come intimately to their notice. Has the Salvation Army recognized its problem? Has it sought to stem the tide of homelessness by taking steps or considering ways and means to dry up the stream at its source? Has it even to any great extent given the men good, cleanly care?

To ascertain what was done with the homeless in the various cities of this country inquiries were sent some little time ago to persons in Boston, Buffalo, Washington, Cincinnati, Cleveland, Chicago, Grand Rapids, St. Louis, Minneapolis, Kansas City, Denver and Seattle, to men who were intimately acquainted with the activities of organized charitable work. From one of the cities came this reply: "The Army maintains what they call the Working Men's Hotel, a typical lodging house which, in the judgment of well-informed people here, accentuates rather than assists in solving the problem of homeless men and boys." This from another of these cities: "The Salvation Army lodging houses are of no assistance in solving the problem of homeless men and boys; gathering them together without inquiry they unwittingly increase the tramp problem and add to the burden of the other charities of the city." And yet another writes: "The Salvation Army lodging house, as conducted in this city for the past four or five years, is the worst we ever saw. A committee of our board of trustees has investigated and found the conditions indescribably bad. We do not consider their efforts in behalf of homeless men of the slightest value." The correspondents from other cities but echo these criticisms.

In justice to the Army it should be said that the Salvation Army Hotel, Chatham Square, New York City, is a clean twenty-

five-cent lodging house, and its appointments and management suggest what each community should expect the Salvation Army to do if it undertakes to provide for the vagrant class. The People's Palace in Boston is a splendidly equipped lodging house having many of the features of a well equipped Young Men's Christian Association building. The minimum price for rooms is twenty-five cents, and for that reason it does not reach many of the vagrant class.

In the summer of 1906 two women, who were anxious to learn for themselves what the problem of work with homeless women implied, spent a night in the Salvation Army's Women's Lodging House of New York City. The change of scene might account for the sleepless night they spent, but the filth, vermin and lack of ordinary sanitary conveniences they found were extreme. No effort was made to befriend the women or to bring religious or other uplifting influences to bear.

The Salvation Army appeals for funds on the plea that it is lodging thousands of the homeless. Should not the giving public insist, if it is asked to contribute toward the maintenance of these lodging houses which, according to the "annual statements" of 1906, are all but self-supporting (in 1905, according to the statement filed with the Secretary of State of New York, there was a balance of \$21,730.12), that no houses be maintained that are not sanitary, and where the congregating of men and boys or of women may become demoralizing.

The further interest that the Salvation Army has in remedying the problem of homelessness is best expressed through the work of the sixty-five industrial homes. During 1906, 8,552 passed out of these homes after a stay of from six to eight weeks. They are said to have passed out to "permanent positions," but as a "permanent position" is defined as one taken by the week, and the Army has no statistics that would show how many stayed at least a week, or how many came back to the homes, there is grave question as to whether the Salvation Army has taken more than the first step toward solving homelessness. Does not the giving public expect the Salvation Army to join hands with those who are addressing themselves to the task of ending vagrancy and homelessness?

A second type of social work in which the Salvation Army has been interested for some years is in the relief of needy families. In this most delicate of charitable tasks, namely, that of providing

proper and ample relief under the best social control, the helpfulness and effectiveness with which this task is accomplished is generally measured by the extent to which all charitable agencies work together. In charity, co-operation spells efficiency. In fifteen of the large cities of the United States from which inquiry was made, it was learned that the character of the Salvation Army relief work varied in proportion to the intelligence, devotion and experience of individual officers, but in ten there was no co-operation; in four, slight; and in but one (Buffalo, N. Y.), good co-operation. The correspondent from one city writes: "We are not able to learn that the Salvation Army in its relief work co-operates with any charitable agency. Though a portion of their Christmas list was sent us, the volume of their co-operation is unworthy of mention." From a second city: "The Army has no desire to co-operate with other helpful societies or agencies." From a third: "The Salvation Army absolutely declines to co-operate with other agencies."

A former private secretary at headquarters explained this lack of co-operation by attributing it to a fear that the Salvation Army had of "being frozen out" unless it did relief work, the need for which would disappear through intelligent co-operation with other agencies. The notion that the Salvation Army deals with families that do not come to the attention of other charitable societies, both before and after becoming known to the Army, has no foundation in fact. For these reasons one is forced to the conclusion that instead of being willing to profit by the success and mistakes of other agencies, the Salvation Army remains unwilling to prevent duplication and is content to work at cross-purposes rather than to join hands with others, for fear of indirectly subjecting its work to others' scrutiny.

An enterprise that co-operates so slightly with other charitable agencies may be expected to have organized its own thrift agencies, such as fuel or stamp-saving societies, its own model pawn shops, its own campaigns for clean milk and for cleaner, safer and sunnier tenements, its anti-tuberculosis committees and camps, that it may do all that modern philanthropy deems essential in social work. Perhaps work of this sort is done, but the public is not made aware of it and the impression is current that the Salvation Army does not fail to advertise thoroughly all of its enterprises.

It is obviously unfair to test the efficiency of any social enterprise by laying down certain specific lines of development to which it must conform in order that it may be called a success. It is reasonable, however, to expect a large national enterprise which has assets of several million dollars to turn its face in the direction of preventive measures, to dry up the sources of crime and poverty, and to reduce the number of deaths and the amount of sickness, working along lines which science is clearly pointing out.

The Salvation Army points to its farm colonies as such an enterprise. General Booth has regarded them as the foundation stones of its regenerative social work, and large sums of money for its various forms of activity have flowed into Salvation Army coffers because of this experiment. The farm colony at Hadleigh, England, was to be the prototype of a large number which the Army hoped to establish in all parts of the United States and Canada. General Booth's statement that the proper solution of the problem of poverty is to place the "landless man" on the "manless land" is appreciated more as an epigram than as a remedy. The twentieth century still waits to see how that can be effectively done with men who lack capital, initiative and character, for it is such that make up the pauper class in every land. Of the three colonies which were started with an imperfect knowledge of American conditions the one at Fort Herrick, Ohio, has ceased to be a farm colony and is now used as an inebriates' home. The colonists at Fort Amity, Colo., and Fort Romie, Cal., have in most instances become self-supporting and have acquired a considerable equity in their homesteads, but no data are adduced as proof that they were, just prior to the period of colonization, dependent upon public or private charity; on the contrary there is a considerable amount of proof that few, if any, belonged to that group which corresponds to what William Booth calls "the submerged tenth," for whom the farm-colony was hailed as a panacea. It is not surprising, therefore, to find the department committee of the English Parliament appointed to consider H. Rider Haggard's report on the Salvation Army colonies in America, saying, with regard to Fort Romie and Fort Amity, "the settlements, then, do not prove that, so far as colonization is concerned, unskilled and untrained persons can be taken from towns, put upon the land and thrive there."

The enthusiasm of the colonists at Fort Romie and Fort Amity,

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is easily explained. Their industry is to be commended and they are to be congratulated for having been the fortunate ones with which to try this "experiment." American colonists who have "certificates of both physical and moral soundness," and who have a desire to till the soil, will succeed where land is provided on easy terms. It is impossible, however, to understand how Mr. Haggard could see in it a solution for England's difficulties with its pauper class.

There are other enterprises which the Salvation Army has undertaken, and among these is one that deserves a large measure of commendation and support, namely, the establishment of its rescue and maternity homes. In a number of the cities of this country these are among the most effective of their kind. We fear, however, that the claim that 93 per cent of the fallen women who passed through them are "restored to lives of virtue" is a statement born of optimism and ignorance of results.

Our communities are grateful for the Salvation Army's interest in the welfare of children, but we have not learned that the Army has taken any part in such important movements as the agitation against child-labor, or that in favor of the establishment of city playgrounds, recreation piers, seaside or city parks.

The Salvation Army preaches temperance and points out in vivid colors the effects of the curse of drink. It has an inebriates' farm at Fort Herrick. Has the Salvation Army also considered searching out preventive measures by which the moribund thousands may be kept from sinking prematurely into drunkards' graves?

By means of its national organization and its wide-spread corps the Salvation Army is peculiarly well fitted to make itself felt in urging questions of moral reform and agitating for such appropriate legislation as will strengthen the hands of those who are bringing about better civic and moral conditions. There are, however, no data at hand that in these directions this large national organization, doing social work, has taken any part in such reforms, national or local, or has at any time tried to bring about a better social condition by proposing more stringent laws or by taking any part in actively supporting such measures as may be proposed by others.

Instead of striking at the root of social evils, the Army is too frequently inclined to take part in remedies that catch the applause of the unthinking public, but are apt to be shallow and rather sensa-

tional. When, in the winter of 1905-06, the newspapers misrepresented certain statements of Mr. Robert Hunter's, so as to make him say that 70,000 children in New York were going breakfastless to school, the Salvation Army at once, without a study of facts, causes or social consequences, opened breakfast rooms. To their credit it should be said that these were closed as soon as it became apparent that few children came and the parents of most of those that came were amply able to provide their children breakfasts. In the spring of 1907, the Salvation Army established its anti-suicide bureau with similar haste, and the Sunday newspapers got material for a new story. Meanwhile others were making a careful study of causes of suicide, and when it became apparent that the poverty and loss of employment had but little to do with the suicides' deed in these prosperous times, the anti-suicide bureau came to the end of its career.

As before mentioned, the public is not inclined to require that the Salvation Army shall undertake all or a majority of these tasks outlined, but it may reasonably expect that an organization that has been entrusted with millions, and is constantly emphasizing its social work, should have performed some of these well, and that it should have begun to study causes, and attack the evils at their source.

A rather intimate knowledge of the Salvation Army's work leads one to the conclusion that the rank and file of the Army's officers and members who are actively engaged in the social work are a devoted group who make up much in devotion for what they lack in intelligence. They do not realize that society is a complicated organism whose elements must be well understood in order that constructive work can be done and that the social worker needs a well-trained mind as well as a good heart and good intentions. That General Booth recognizes the value of these requirements is attested by his desire to establish a "University of Humanity," for which, it may be noted, at least four of the American universities have already provided through their courses in practical social work.

It is also quite apparent that the Salvation Army's field of social work has thus far been restricted. It has resourceful leaders, however, and large support, and it may be expected that the Army will become increasingly useful in the future.

NOTES ON MUNICIPAL GOVERNMENT

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## The Relation of the Municipality to the Water Supply

### A SYMPOSIUM

**Chicago.**—FREDERIC REX, Assistant City Statistician, Chicago, Ill.

**Philadelphia.**—HENRY RALPH RINGE, Philadelphia, Pa.

**Baltimore.**—HENRY JONES FORD, Baltimore, Md.

**Cleveland.**—EDWARD W. BEMIS, Superintendent City Water Department, Cleveland, O.

**Buffalo.**—PROF. A. C. RICHARDSON, Buffalo, N. Y.

**San Francisco.**—MURRAY GROSS, University of Pennsylvania, Philadelphia, Pa.

**Cincinnati.**—MAX B. MAY, Cincinnati, O.

**New Orleans.**—JAMES J. McLOUGHLIN, New Orleans, La.

**Detroit.**—DELOS F. WILCOX, Ph.D., Secretary Municipal League, Detroit, Mich.

**Washington.**—DANIEL E. GARGES, Secretary to the Engineer Commissioner of the District of Columbia, Washington, D. C.

**Providence.**—FRANK E. LAKEY, Boston, Mass.

**Duluth.**—W. G. JOERNS, Duluth, Minn.

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### CHICAGO

By FREDERIC REX, Assistant City Statistician, Chicago, Ill.

Chicago's earliest efforts to provide a satisfactory water supply for its citizens date back to November 10, 1834, when the board of trustees appropriated the sum of \$95.50 for the digging of a large well, which was to supply the families adjacent and the community in case of fire. Owing to the inadequacy of wells as a source of supply, water carts were operated by private individuals, who sold lake water to the inhabitants at from five to ten cents a barrel. In January, 1836, the state legislature granted a charter for a period of seventy years to the Chicago Hydraulic Company, with authority to construct and operate a water works system in the infant city. The construction of the system, such as it was, was delayed for a period of four years, active operation not being effected before 1840. Water was obtained from an

intake pipe running into Lake Michigan about 150 feet and distributed through about two miles of wooden mains. Inasmuch as the area of the city at the time was about ten and one-half miles square, it is evident that but a small portion of the city was supplied with water by this concern. Four-fifths of the population was still supplied with water by wells and the crude cart system.

By a legislative act passed February 15, 1851, the Chicago City Hydraulic Company was incorporated as a part of the city government, and placed in charge of an elective board of water commissioners. Power was given the commissioners to purchase the tangible and intangible property rights of the Chicago Hydraulic Company, and to borrow \$250,000 through a bond issue upon the credit of the city. Later additional power was granted the board to issue bonds for \$150,000 and \$100,000 in 1852 and 1854, respectively. The question of taking over the works of the old private company was submitted to the voters, 2,688 ballots being cast in favor of the purchase of the same by the city, while 513 electors voted negatively. The beginning of Chicago's municipalized water system may be said to date from this act of its citizens.

Work on a pumping station was begun, and a pumping engine with a daily capacity of 8,000,000 gallons installed. (It may be of interest to note that this engine, erected in 1853, was in continuous service until replaced by one of the modern high pressure pattern in 1904.) Water was secured through a 30-inch wooden inlet pipe extending 600 feet into the lake.

Operation of the new plant was commenced in February, 1854. It consisted of one reservoir, holding about 500,000 gallons, the pumping works and eight and three-quarter miles of iron pipe. During the first four months water was supplied but nine hours a day, and none on Sunday, except in cases of fire. Thereafter the supply was continuous throughout the twenty-four hours. The entire cost of the system up to December 31, 1854, was \$393,045.32. The daily supply of water was 591,083 gallons during the first year. The average daily per capita pumpage was 8.9 gallons.

To meet the demands of the phenomenal increase of population and the rapid expansion of the city's area, the capacity of the water works required nearly constant augmentation. In 1858 a daily capacity of 20,000,000 gallons was thought sufficient to meet the requirements of a population of 84,000. In 1868 the capacity had been made 38,000,000 gallons, while the population had reached a quarter of a million. The total revenue at this time amounted to \$420,686.00 as against a revenue of \$102,179.00 in 1858. Where there were 72.4 miles of water pipe and 4,666 taps in the city in 1858, the year 1868 showed a total of 208.6 miles of pipe and 20,915 taps. In 1877 the capacity of the engines was further increased to 104,000,000 gallons, the population being 422,196. The number of taps was 59,369, of which 1,623 were metered. There were 424.6 miles of mains, and the revenue had reached \$908,500.00. In 1889, by an addition of about 134 square miles to the city's area, making the population by 1892 nearly double that of 1888, it was necessary to give the water works system a capacity of 357,000,000 gallons to meet the new demand imposed upon it. The number of taps in 1892 was 203,954, while the miles of pipe in service was 1,402. The total revenue had become 2,738,434.10.

To-day Chicago's water supply is taken from Lake Michigan through five intake cribs situated from two to four miles in the lake and made accessible to the consumer through thirty-eight miles of tunnels and 2,075.50 miles of mains. There are ten pumping stations which pumped an average total of 436,954,473 gallons daily in 1906, or 204 gallons of water per capita each day. The number of taps in 1905 was 345,174, of which it is estimated that approximately 250,000 are in use. Twelve thousand three hundred and one meters were in service in 1906.

Owing to the vast amount of water wasted by the consumer through leaky mains and in various other ways, the problem of an adequate supply has become of serious and recurring importance to the city's engineers. The average daily per capita consumption has increased from forty-three gallons in 1860 to 204 gallons in 1906. To-day the pumpage per capita is five times greater than it was forty years ago. Although the present daily capacity is about 600,000,000 gallons, nevertheless, if the growth of the city be considered for the next ten years, the municipality will be forced to enlarge its plant over thirty-seven per cent within this decade. In the past ten years the average expenditure by the city in making needed extensions to its plant has been \$700,000 annually, being for tunnels, pumping stations and machinery for pumping, exclusive of the distribution system. The city engineer advisedly estimates an average annual outlay of \$600,000 for the next ten years as absolutely necessary in order to supply an expanse of territory which is taxing our pumping stations to the utmost.

It is evident that this strain upon our water works could be greatly abated by the prevention of unnecessary waste. Fully seventy-five per cent of all water pumped is wasted according to the city engineers. This waste is accomplished by reason of defective pipes and house plumbing, faucets left open to prevent freezing in winter and in summer to keep water and other matter cool. Mr. Joseph Medill Patterson, in a report made by him as commissioner of public works, on the subject of water waste and the manner of checking the same, said: "The only method yet known to stop waste is to install meters. And the necessity for installing meters cannot be over-emphasized. There are many things to be done to the Chicago water works in order to make it perfect. By far the most important and the easiest, the cheapest and the quickest thing to be done is to introduce extensive metering. When meters have been generally established and the waste reduced to a minimum we can unquestionably sell water to all consumers for five cents a thousand gallons, and not improbably for four and one-half cents a thousand."

In 1904 the amount of water pumped in gallons was 146,028,637,950, of which 21,717,046,000 gallons were pumped through meters. The revenue derived in this year from unmetered water was \$2,218,076, while the sum of \$1,616,464 was realized from metered taps. From this it is apparent that although only fifteen per cent of the total water pumped is registered through meters, forty-two per cent of the entire revenue received is from water sold through meters. Where the average revenue received for all water pumped was 2.628 cents per thousand gallons, the average revenue received from metered water was 7.44 cents per thousand gallons. While the cost to the city of 1,000 gallons of all

water pumped is 2.28 cents, it is selling unmetered water to the consumer at 2.25 cents per thousand, or .03 of a cent less than cost. Thus the desirability of placing the water works upon a business basis, equitable to the consumer and the city alike by the introduction of meters is palpable from the fact that the entire profit accruing to the municipality from the sale of water is from its metered water. As the average amount of water supplied through each unmetered tap is 430,000 gallons per year, it is argued that by extensive metering, after allowing a maximum per capita consumption of 100 gallons a day under meter control, the saving effected in water pumped would be 215,000 for each tap annually, which would mean a total saving of 2,150,000,000 gallons, or sufficient to meet the needs of an increase of population of 60,000.

By the installation of meters it is far from the purpose to make any restriction in the legitimate use of water. It must be clear that the buying and selling of water by measure is cheaper and more just than the present method. In lieu of a present daily per capita consumption of 204 gallons, metered service would easily reduce this to 100 gallons per day, due allowance being made for reasonable waste and leaks. A metering of but forty per cent of the taps in use means a saving to the municipality of at least \$500,000 a year. Even though the installation be gradual at the rate of four per cent a year for a decade, the total pumpage at the end of this period would still be much less than it is to-day. Our water works system could be kept at its present capacity and maintain its present service without building additional tunnels and pumping stations. This is borne out by the experience of Milwaukee, where, the supply, being under meter control, no additional pumping machinery has been added for the last ten years, and the service is better than it was when the city first put in meters.

Water rates for taps not controlled by meters, are fixed according to a scale provided for by city ordinance. Such assessments are entirely dependent upon the frontage and height of buildings as well as the uses to which the same are put. These frontage rates are fixed upon a minimum basis. Extra charges are made for additional fixtures which involve the use of water for special purposes. All premises, where the frontage rates and charges for special fixtures aggregate \$40.00 per annum or more, are subjected to meter control. A flat rate of seven cents per 1,000 gallons is charged metered consumers.

In considering Chicago's water supply from a sanitary point of view, one has but to revert to the time when the city discharged its sewage into the lake with the result that the source of the water supply at the intake cribs was polluted, and in consequence endangered the lives of its citizens. By the construction and opening of the sanitary and ship canal in 1900—also known as the drainage canal—part of the sewage was diverted from the lake to the canal, but not until the final completion of the huge system of intercepting sewers now being built, some of a width of twenty feet, will the danger of contaminating the water supply have been surmounted. These sewers are nearing completion in all parts of the city. Those in the southern division are now practically finished, while the partial completion of the north side system during the year will then entirely prevent the further flow of sewage into the

lake. This system of intercepting sewers, begun in 1898, and entailing an expenditure of \$5,000,000, will, when completed, have been wholly paid for out of the net earnings of the water works.

The beneficent effect of the drainage canal in the purification of our water is abundantly proved by comparing the number of deaths from intestinal diseases, typhoid fever and such diseases whose origin can be laid to impure drinking water, for the two decades from 1885-1894 and 1895-1904. In the ten years from 1885-1894, typhoid fever caused 7,844 deaths, being a rate of 7.7 per 10,000 population, while in the decade from 1895-1904 there were 5,392 deaths, or a rate of 3.3 per 10,000, a reduction of fifty-one per cent. Where in 1891 the typhoid fever death rate was 17.38 per 10,000—being the highest of any city in the civilized world—the rate in 1905 was 1.65 per 10,000, or a reduction of ninety per cent.

Diarrheal diseases maintained a death rate of 25.6 per 10,000 population between 1885-1894, while from 1895-1904 the rate was 15.0, or a reduction of 41.4 per cent. This decrease in the number of deaths from intestinal diseases, Dr. Charles J. Whalen, until recently commissioner of health, attributes to: "Constant supervision of the water supply, with publicity of its daily condition; the regulation of lake dumping; securing sewage diversion from the lake; the correction of more than 100 local defects in tunnels and pumping stations in a single year; the promotion of the drainage canal and a vast amount of work for the sanitary district in the chemical and biologic examination of the streams between Chicago and St. Louis—are among the agencies which have reduced typhoid and diarrheal death rates—practically to the vanishing point for typhoid." Fully ninety-seven per cent of the water received from each of the ten pumping stations daily during 1906 was pronounced "safe" after being subjected to chemical analysis at the city laboratory.

The total cost of the water works system of Chicago from the date of its inception in 1854 up to December 31, 1906, is \$42,156,989.19, the appraised net valuation of the entire plant at present being approximately \$37,000,000. The amount realized in 1906 from assessed rates, metered service and miscellaneous earnings was \$4,520,979.60, being an increase over 1905 of \$301,417.16. The total cost of maintenance in 1906 was \$2,060,249.12, an increase of \$12,853.99 over 1905.

During the past year a number of pumping stations were equipped with modern pumps and boilers. A number of improvements are now under way, such as the construction of new tunnels, pumping machinery and boilers. Chief among these is a land tunnel, ten miles in length and varying from nine to fourteen feet in diameter, which is considered the largest of its kind in the United States. It will be 120 feet below the level of the lake and of sufficient size to supply three pumping stations of a daily capacity of 100,000,000 gallons each.

In accordance with a broad and ascertained plan all pumping centers are being provided with a capacity of 100,000,000 gallons daily each and placed about six miles apart. This will render it necessary to force water through pipes over an area not greater than three miles in either direction, thereby

vastly improving the local water pressure and causing a saving in the cost of pumping on account of the low friction heads obtained in the water mains. It may be stated here that the total cost of pumping 1,000,000 gallons of water one foot high in 1906 was \$3.89 against \$4.25 in 1905.

Extensive coal testing experiments were conducted in 1906 and notwithstanding the increased quantity of water pumped during the year a saving of \$43,214.91 was effected in the city's coal bill. By an ordinance of the city council the city engineer has been given complete control and sole responsibility of the water works. Where formerly the property owner under meter service was forced to install a meter on his premises at his own expense, the city council has relieved him of the burden and placed it upon the city. In pursuance of a general progressive policy the water department has installed an entirely new system of accounting constructed along the lines of the most approved railroad accounting.

With the general metering of taps achieved in the near future, and its consequent happy effect upon the water works system from a financial and an engineering point of view, Chicago can then point with pride to a municipal water plant first in the purity and health sustaining qualities of its product, in the reasonableness of its rates and in its general freedom from misgovernment and corruption.

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#### PHILADELPHIA.

By HENRY RALPH RINGE, Philadelphia.

The City of Philadelphia is particularly indebted to its founders for their wisdom in selecting a site at the confluence of two large rivers, the Delaware and Schuylkill, where there is running water in abundance, and the drainage is excellent. The early settlers depended upon wells and springs, but as population increased these sources were polluted, and it became necessary to devise some method whereby the pure water could be brought into the city.

This most important question of pure water was aroused in the public mind by Benjamin Franklin, who deserves much credit for presenting the most feasible and least expensive plan for water works. It was Franklin's plan to bring the water of the Wissahickon Creek to the city by gravity—this recommendation appeared in his will of 1789. Had he not died in 1790 this project would have been consummated, and the great yellow fever epidemic of 1793 would probably have been averted.

It was not until 1797 that the first petition for the introduction of pure water into the city was presented to councils. After much discussion and the presentation of many schemes, Benjamin H. Latrobe was appointed, in 1798, to investigate the entire subject. In the latter part of the same year Latrobe presented his report, and declared in favor of the Schuylkill River, because of its "uncommon purity," and summarized the proposed schemes as follows:

1. To complete a canal immediately which would run through the city  
(562)

and from which the water might be drawn through pipes into private cisterns in the cellars of the houses.

2. To carry out Franklin's plan of conducting the water of the Wissahickon to the city. (Had this been carried out the city would have had a daily supply of about 60,000,000 gallons, a quantity not required until 1880.)

3. To erect water works to be driven by one of the two rivers.

4. To collect water in impounding reservoirs from any practicable source, and thence conduct it in wooden or iron pipes to the city.

5. To construct a reservoir in Center Square (the site of the present Public Buildings) with an elevation of forty feet, at an estimated cost of \$75,000.

Due consideration having been given his plans, they were finally adopted and the first water works were accordingly erected and operated by steam at Chestnut Street wharf, on the Schuylkill, and at Center Square, with Latrobe in charge of the building. To meet an inadequacy of funds, councils authorized a loan of \$150,000, all subscribers to which received three years' supply without charge from the date of initial operation in 1801. The two steam engines installed were the first and largest pumping engines in the United States, having a capacity of raising 3,000,000 gallons fifty feet high in a day.

The cost of running the engines, the trouble of keeping them in repair, and the uncertain supply of water led councils, in 1811, to direct the "Watering Committee" to make another examination and inquire into a better method of supplying the city. They reported after a short time in favor of a steam works at Fairmount. These works were immediately begun, and turned over to the city in 1815, the Center Square works then being discontinued.

Up to this time the city was receiving no direct pecuniary benefit from the water works, in fact a sufficient amount was not realized from water rents in any one year to pay for the fuel and running of the engines. The cost of the Schuylkill and Center Square works, with yearly expenses from March, 1799, to September, 1815, was \$657,398.91, while the entire gross receipts were but \$105,351.18, leaving a deficit of \$552,047.73, without interest. The new works erected at Fairmount were also expensive, and as the population was very rapidly increasing great difficulty was experienced in maintaining a sufficient supply. The problem was ultimately solved in 1818, when the city purchased the dam and locks at the Falls of Schuylkill and in the next year commenced a dam 1,600 feet long across the Schuylkill River at Fairmount in place of the steam works, which were abandoned at the completion of the dam in 1822.

The completion of these works marks the beginning of the present water supply system of the city, and although the subsequent works were run by steam, as is shown in the following table illustrating the growth of the system, the Fairmount works are still running, with the one variation of having turbine wheels in place of the old wooden breast wheels.

PUMPING STATION.	When Started.	How Operated.	Daily Average in Gallons Pumped.			Aggregate Capacity in Gallons per day, 1905.
			1855.	1875.	1895.	
Fairmount . . . . .	1822	Water	7,611,756	23,833,072	20,786,930	19,205,734
Spring Garden. . . . .	1845	Steam	4,178,096	5,641,688	13,8015,593	33,390,000
Delaware and Frankford . . . . .	1851	Steam	1,556,197	2,214,340	12,911,930	170,000,000
Twenty-fourth Ward Works*. . . . .	1855	Steam	103,606	.....	.....	117,000,000
Belmont . . . . .	1870	Steam	.....	8,371,254	23,116,379	43,572,768
Germantown . . . . .	1851	Steam	.....	.....	.....	.....
Roxborough. . . . .	1872	Steam	.....	2,437,354	17,020,941	26,494,369
Chestnut Hill . . . . .	1873	Steam	.....	92,933	82,824	750,000
Mount Airy . . . . .	1887	Steam	.....	.....	1,595,825	44,018
Queen Lane . . . . .	1895	Steam	.....	.....	359,276	3,000,000
Belmont Auxiliary. . . . .	1895	Steam	.....	.....	160,319	80,000,000
Roxborough Auxiliary. . . . .	1895	Steam	.....	.....	865,322	2,277,779
Frankford Auxiliary. . . . .	1900	Steam	.....	.....	647,804	7,000,000
Total . . . . .	.....	.....	13,449,655	42,639,741	215,824,239	559,040,000

\* Abandoned in 1870 at completion of Belmont Works.

† Private concern; came into hands of city 1866. Abandoned in 1872 at completion of Roxborough Works.

The number of reservoirs has increased in proportion to the growth in the demand for an increased water supply, as the following illustrates:

Date.	No. of Reservoirs.	Capacity in Gallons.
1875 .....	9	123,783,000
1890 .....	11	848,447,000
1905 .....	21	1,548,397,000

The relative increase in the quantity of water used has been as follows:

Date.	Total Amount of Water Pumped into Reservoirs. Gals.	Average Daily Consumption. Gals.	Average Daily Consumption per capita. Gals.
1875 .....	15,097,160,069	47,639,741	56
1890 .....	51,698,508,699	141,639,749	132
1905 .....	125,367,447,176	326,630,253	227.2

The supply at present is quite adequate, the pumping stations having a total daily capacity of 559,040,000 gallons, whereas the average daily pumpage is only 343,472,567 gallons, or over 200,000,000 gallons less than the present capacity of the pumps.

The charges to the consumers are in the form of water rents, which are regulated by the city councils, who establish a minimum rate proportionate to the size of the connection to the main. The water rents are paid to the city treasury. As a usual thing dwelling houses have but one water attachment, while stores, office buildings and manufacturing establishments may have more than one connection when necessary, it being provided that the amount of annual water rent by schedule rates for every ferrule connection charged to any person shall not be less than certain specified minimum rates, which are:

½-inch ferrule .....	\$5.00
¾-inch ferrule .....	26.00
1-inch ferrule .....	40.00
2-inch ferrule .....	160.00
4-inch ferrule .....	640.00
6-inch ferrule .....	1,440.00

The use of the water meter has not been very successful. Meters do not work equitably, and are merely optional with the consumer. In 1905 there were but 1,735 meters in use in manufacturing plants, a decrease of 28 from the preceding year. These are only installed when formally requested by the owner of any premises not a private dwelling, where there is an excess of water used beyond that charged for by the fixture or ferrule rate. No meter can be removed without notice to the bureau. Those violating this rule are charged by meter rates for the entire ensuing year. The rate to all places not charitable institutions is 30 cents per 1,000 cubic feet.

The minimum meter rates are:

½-inch ferrule .....	\$5.00
¾-inch ferrule .....	13.00
1-inch ferrule .....	20.00
2-inch ferrule .....	80.00
4-inch ferrule .....	320.00
6-inch ferrule .....	720.00

Charitable institutions are charged 4½ cents per 1,000 cubic feet. All the meters are the property of the city, and no rental is charged unless the meter is unduly damaged.

The earnings of the bureau of water have been materially increased since the adoption of the present system in 1822. For the year of 1905 the total receipts were \$3,790,447.26 and the total expenditures were \$4,746,025.71, of which \$945,389.16 were for current expenses and \$800,636.55 were for extensions and improvements, leaving a profit of \$2,044,421.55 for the year 1905. The net earning of the bureau since the installation of the works in 1799 to December 1, 1905—was \$91,232,768.65. The total expenditures for maintenance and construction, improvements, etc., for the same period were \$72,213,364.19, making a net profit since 1799 of \$19,019,404.46.

Adequate as the facilities have been the water supply has not been of the best up to the last few years owing to the great pollution of the Schuylkill River before it reaches this city, and as a consequence much typhoid fever has resulted. This, however, is slowly being eradicated by the great filtration system which has been in process of construction since 1898. This system, when completed, will unquestionably be the greatest of its kind in existence, and although politics have very unfortunately entered into the work to such an extent that all work was stopped for one year pending a political investigation, still, the time of completion is within sight. The work of Major Cassius E. Gillette, U. S. A., and the others in charge will be a lasting monument to their skill and patience in time of difficulty.

Up to 1905 there has been \$22,500,000 appropriated from loans and direct taxation for the impovement, extension and filtration of the water supply, and it is estimated that before final completion it will cost at least \$30,000,000.

The four filtration plants and their respective capacities are as follows:

SECTION.	Estimated Capacity of Filtered Water when Completed—gals.	Daily Average in 1905 of Filtered Water—gals.	Cost per 1,000,000 Gallons in 1905.	Water taken from	Started.
Lower Roxborough .....	12,000,000	9,627,000	\$3.60	Schuylkill.	1903
Upper Roxborough .....	20,000,000	10,006,000	4.50	Schuylkill.	1903
Belmont .....	40,000,000	26,252,000	4.13	Schuylkill.	1904
Torresdale .....	248,000,000	.....	.....	Delaware.	.....
Average .....	.....	45,975,000	\$4.13	.....	.....

Together with these there are the Shawmont and Lardners' Point pumping stations, the former of which is connected with the Roxborough filters and the latter with the Torresdale filter. At the Torresdale station, unless some unforeseen condition arises, there will be filtered a volume of water larger than the entire consumption of London and two and one-half times the combined capacity of the filtration work at Berlin and Hamburg. It will supply a population of nearly 1,100,000, and will represent nearly five-sixths of the entire water supply of the city. At present only West Philadelphia, Germantown, Chestnut Hill, and Manayunk are supplied with filtered water, the daily average quantity of filtered water being 45,975,000 gallons, which cost \$4.13 per million gallons.

The effect of this filtered water upon these sections of the city in comparison with the sections which use unfiltered water, in regard to the elimination of typhoid fever, is very noticeable, as is illustrated in the following table compiled by the filtration bureau in 1905:

Locality.	Population.	Cases.	Per 100,000
City of Philadelphia .....	1,491,247	6,451	8.32
<sup>1</sup> 21st and 22d Wards (filtered)...	113,755	192	3.51
28th and 38th Wards (unfiltered)	89,142	289	6.74
West Philadelphia (unfiltered) .	181,941	562	6.05
Wards, 23, 25, 33, 35 (unfiltered)	144,968	2,105	27.59
Filtered water district in West			
Philadelphia .....	41,424	215	0.71

The works at present are in a generally satisfactory condition, but owing to the rapidly increasing population in certain sections of the city, it is almost impossible for the supply to keep pace with the demand. Many improvements already contemplated, such as new pumping stations, engines and boiler houses and large distributing mains are being delayed because of the lack of sufficient appropriations, but in spite of these hindrances it is an agreed fact that when these various improvements have been completed the localities suffering from an inadequate supply and pressure will be relieved and the City of Philadelphia will enjoy the benefits of a splendid system.

#### BALTIMORE

By HENRY JONES FORD, Baltimore, Md.

The water supply of Baltimore City is owned and operated by the city government. The department is managed by a board of five commissioners, appointed by the mayor and confirmed by the second branch of the city council, as in the case of other municipal appointments. The president of the board is the water engineer, who is a salaried officer. The remaining

<sup>1</sup>The average in the Twenty-first and Twenty-second wards may seem a little high, but this is due to the fact that many of the people residing in this section are occupied during the day in other portions of the city which receive unfiltered water.

members of the board are unpaid, this being the usual manner in which the executive commissions in Baltimore administration are constituted.

The city water department dates back to the appointment in 1852 of commissioners to acquire water rights belonging to the Baltimore Water Company and others. A 6 per cent loan of \$1,350,000 was issued for the purpose, and with that investment the public service was organized. The water board was organized under an ordinance passed in 1854. With the growth of the city the service has gradually enlarged and extended. At present there are two sources of supply: Gunpowder River, with an average daily flow of 710,000,000 gallons, and Jones' Falls, 35,000,000 gallons. There are two impounding reservoirs: Loch Raven, on Gunpowder River, and Lake Roland, on Jones' Falls, having a capacity respectively of 410,000,000 and 400,000,000 gallons. In addition there are seven storage reservoirs, with an aggregate capacity of 1,328,875,000 gallons. In 1906 the daily average of consumption was 66,863,925 gallons, a per capita of 119 gallons.

Water meters may be introduced as the water board considers it expedient. During the last seven years 2,711 new meters have been put in service and meter revenues have increased from \$206,844 a year to \$318,377 in 1906. The law authorizes the board to meter certain classes of property in which consumption is likely to be large, and consumers avoid meters if possible, as license charges are low and meter charges are almost invariably heavier. The flat rate on dwelling houses is only \$2.50 a year for a house not exceeding 12 feet front; \$4.00 over 12 but not over 13 feet; \$5.00 not over 14, and so on. On an 18-foot front house the charge is \$12.00, and on a 25-foot front \$17.00. There is no extra charge for dwelling houses except for closets, \$2.00, and urinals, \$1.50. No charge is made for bathtubs in private dwellings. There is a list of special charges applying to business establishments and for the use of water motors, etc. By meter the rate is 45 cents per 1,000 cubic feet ordinarily, but is 60 cents for hydraulic elevators.

The supply comes to the city by gravity flow, but there are high service reservoirs for which pumping stations are maintained. The purity of the supply is guarded by vigilant inspection of the water shed, but it has not been found necessary to resort to filtration. The ample supply of clear water kept in storage is sufficient to provide pure drinking water.

The area of Baltimore prior to 1888 was 13.202 square miles. By annexations made in that year an area of 16.939 square miles was added, and service to the new districts will require extensions that the water board is now planning to carry out at an outlay of about \$5,000,000, for which bonds will be issued. Larger impounding capacity will be required on the Gunpowder River, as while the average daily flow of that river was over 263,000,000 gallons in excess of the average daily consumption, yet there have been times when the daily flow was less than the maximum daily consumption. The water shed is, however, adequate to all requirements now calculable, and the continuance of the present policy of steady improvement seems all that is required by the situation.

The receipts in 1906 were \$961,630, and the expenditures were \$928,813, leaving a surplus of \$32,816, which, in accordance with the governmental sys-

tem here, was turned over to the Commissioners of Finance as an unexpended balance. The statement of assets and liabilities to December 31, 1906, shows total assets of \$16,818,094, against which were liabilities amounting to \$9,539,616, of which \$9,500,000 were for water loans. The Baltimore water department supplies water at low rates to consumers, and it is managed with a view to public service rather than earning profits. Indeed, it is stated that the annual surplus is only nominal, and all that is really sought is that the department shall pay its way.

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#### CLEVELAND

By EDWARD W. BEMIS, Superintendent City Water Department, Cleveland, O.

The necessary brevity of this article forbids a full account of the history and present conditions of the Cleveland water works, but a few facts may be of interest. The city began pumping water through the plant that it constructed itself in the year 1856, and has continued to operate the plant ever since. Prior to that time there were no water works in the city, and attempts had been made by the city government to induce a private company to undertake the work, but the inducements had not been considered sufficient.

The following table will give some idea of the growth of the department:

Year.	Connections in use.	Gallons of water pumped.	Meters in use.	Net receipts from water.
1870 .....	3,893	1,126,228,500	....	\$70,411.18
1880 .....	10,013	3,725,683,021	402	202,377.92
1890 .....	30,938	10,142,312,796	1,794	502,954.11
1900 .....	53,473	24,487,098,808	2,810	765,511.95
1906 .....	67,519	21,552,886,258	56,168	848,746.87

The supply is taken from Lake Erie through a tunnel nine feet in interior diameter and five miles in length, extending out to a steel crib four miles in a direct line from the shore. This tunnel has a capacity of over twice the present maximum daily pumpage. The new pumping station has a daily capacity of 110,000,000 gallons, while the maximum consumption is only 80,000,000 gallons, and the average is only 59,000,000 gallons. Reservoirs with a capacity exceeding the maximum daily consumption equalize the pressure and are a still farther safeguard to the city.

The charge for water to all consumers, large and small, is very low, being 5 1-3 cents per 1,000 gallons, which is the same as 40 cents per 1,000 feet. This is a lower rate than any private water company charges, and for the ordinary house consumers is a lower rate than any municipal plant, with possibly one or two exceptions. In fact, those possible exceptions probably do not exist if account is taken of the fact that to enjoy the low meter rates in these two or three other cities, the consumer must purchase and set

his own meter, while in Cleveland that expense is entirely borne by the water department.

Three-fourths of the houses that are metered pay a minimum of \$5 a year, and the other one-fourth pay a minimum of \$2.50. Over half of all the residences and tenement houses in the city averaged for the six months ending in April, 1907, only \$2.48 per building or service connection.

With the introduction of meters, everyone was given the wholesale rate above mentioned of 5 1-3 cents per 1,000 gallons, which had hitherto been given to only a few hundred besides the large consumers, practically no others being metered. The reduction given to the 51,700 buildings or service connections that had been metered since 1900 amounted in April, 1907, to 40.56 per cent below what had been paid on the assessment or flat rate basis. This has meant a reduction of about \$200,000 a year in the revenue of the department below what it would have been without meters. It would not have been possible for the department to have stood this loss in its revenue had not the introduction of meters checked the rapidly growing increase of waste and of expenses which had previously prevailed.

The pumpage had increased during the six years, 1888 to 1894, from 8,491,091,152 gallons to 14,414,534,830 gallons, or about 70 per cent. The increase from 1894 to 1900 was 10,072,563,978 gallons, or again 70 per cent, while there has been an actual decline in the annual pumpage during the last six years of 2,934,212,550 gallons, or 12 per cent. In none of these cases is allowance made for slip of the pumps, which would not materially affect the general conclusion.

In spite of the reduction in pumpage, there was so great an increase in the population of the city and in the number of consumers, the latter increase being over 26 per cent, that the operating expenses and ordinary repairs increased 12 per cent from 1900 to 1906. This, however, was small compared with the increase of 60 per cent in such expenses from 1888 to 1894, and of 62 per cent from 1894 to 1900. This excellent showing was not entirely due to metering. The introduction of a business method of administration modeled after the English municipalities, and the completion of some new pumps, contributed to the result.

The head of the department, thanks to the hearty co-operation of Mayor Johnson, has been allowed to make all appointments and removals without interference from anyone, and in ignorance of the politics of all employees.

If the operating expenses and repairs had increased 61 per cent during the last six years, which was the average increase of the two previous periods, the total expense would have been \$443,354.81 in 1906. The actual expenses were \$135,725.87 less than this. The interest and depreciation on the meters was not half as great as it would have been on the additional machinery and mains that would have been necessary had the department not invested about \$800,000 in  $\frac{5}{8}$ -in. and  $\frac{3}{4}$ -in. meters during the last four years.

If the department had not spent \$800,000 on these meters, it would have had to spend \$1,600,000 for other extensions in addition to what actually was spent. Seven per cent on this extra \$800,000 would be about \$56,000. Those additional amounts of fixed charges, together with the \$135,725 saving

in operating expenses, just mentioned, make a total saving through the meters and other improvements in 1906 of over \$190,000. This has all gone to the people in reduced charges for water.

The city obtained its water from an old tunnel extending only one and a third miles from shore prior to 1904. The increasing discharge of sewage into the lake from the rapidly-growing city so contaminated the water supply that the tunnel now in use was undertaken. It should have been finished in 1902, but the contractors, who were losing money on the contract, had not extended the tunnel a single foot for eleven months when the water department took direct charge of the work at the close of 1901 and completed the job by direct labor by the beginning of 1904. Immediately the deaths from typhoid per 100,000 population declined so rapidly that in 1906 there were only fourteen cities with a lower death rate from this cause among the thirty-eight cities having over 100,000 population. The death rate from typhoid in 1906 was 20.2, or less than one-third that of Cincinnati, Pittsburg or Philadelphia.

The plant has a structural value, according to careful computation, of about \$11,000,000, and a bonded indebtedness of \$4,441,000. The rest of the plant has been paid for out of earnings. During 1906 the earnings of the department were over \$200,000 in excess of interest on the bonded indebtedness and such allowance for depreciation, to wit: 2 per cent on the structural value, as the experience of the last fifty years has shown to be necessary.

A private company would have paid taxes of about \$100,000, which the public plant did not pay. On the other hand, a private plant would have charged for water for fire purposes, street cleaning and sprinkling, public parks and playgrounds, schools, and other public buildings, fountains, etc., over twice this amount.

Of the 70,000 services in use, about 57,000 are now metered, and the department has just bought 10,000 more meters, which it will set during the ensuing twelve months.

Large extensions of street mains are also well under way.

Bacteriological analyses of the water are made daily, and every effort is being put forth to make the department a model for other municipal undertakings, such as electric light, garbage works, street railways, etc., as the city is now undertaking, or may undertake in the near future.

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#### BUFFALO

By PROF. A. C. RICHARDSON, Buffalo, N. Y.

The first company which undertook to supply the citizens of Buffalo with water was the Buffalo and Black Rock Jubilee Water Company, which was organized in 1826 and incorporated in 1827. Before 1832 it had laid sixteen miles of wooden pipes, which were simply logs bored through from end to end, with one end sharpened to fit into the next log. Some of them are still dug up occasionally. The source of supply was the Jubilee Springs, on Delaware Avenue, near Ferry Street, and as this was higher than any

part of the district then supplied, no pumps were necessary. The Jubilee Water Works continued in existence, with commissioners of its own, in addition to the system next to be described, down to about 1898, and the land containing the springs belonged to the city as late as 1902.

This system supplied but a small part of the city, and in 1849 the Buffalo City Water Works Company was incorporated with a capital of \$200,000, which might be increased to \$500,000. There was trouble at first about raising the capital. The common council voted to subscribe \$100,000, but this action was reconsidered, and the subscription was refused. At last, however, two Philadelphia contractors subscribed for enough of the stock to ensure the construction of the works, with the tacit understanding that the contract for the construction should be given to them. The work was begun in 1850, and completed in 1851, and the works were formally opened January 2, 1852.

The water was taken from the margin of the Niagara River, the inlet being situated on Bird Island Pier; and a tunnel about four feet in diameter and 330 feet long, running under Black Rock Harbor and the Erie Canal, connected this inlet with the wells under the pumps. Of these latter, there was but one at first, built in 1851, with a capacity of 4,000,000 gallons in twenty-four hours. Another was added in 1866, having a capacity of 6,000,000 gallons. The water was pumped into a reservoir which would hold 11,000,000 gallons, built on the block bounded by Niagara, Connecticut, Vermont Streets and Prospect Avenue, and was then distributed to the city by 33.9 miles of pipe of various sizes. This plant was the nucleus of the present water works, which have been extended and improved until they are now among the largest in the country. The pumping station is the largest under one roof in the world.

The charter of the company gave the city the right to acquire the plant at any time within twenty years from the date of incorporation, and in 1868 it was deemed necessary to do so. Accordingly, on May 7th of that year the legislature of the state authorized the city to issue bonds to the amount of \$705,000 for this purpose. The purchase was consummated and the city, by three commissioners, one of whom was the then mayor, Chandler J. Wells, took formal possession of the plant August 17, 1868.

The systems above described were supplemented by a large number of wells in various parts of the city, and an old-fashioned pump with a long iron handle was a not uncommon sight on the street corners when the writer came to live in the city in 1883. All these, however, have long since been abandoned and filled up.

By the time the city took over the works it had become necessary to take measures for obtaining a more ample and a purer supply of water. Accordingly, in 1870, plans were made for extending the tunnel, duplicating it, and erecting a new inlet pier further out in the river. This work was completed and the water let in December 27, 1875. The new pier was located at a point in the river where the water is about sixteen feet deep and the current flows at the rate of seven to fifteen miles an hour. The two tunnels connecting it with the shore wells are about 985 feet long, and

together have a capacity of 350,000,000 gallons a day. There are now in the pumping station nine steam pumps of various makes and one electric pump, which together have a capacity of 212,000,000 gallons per day. Another large electric pump, for which bids have been received, will probably be added soon.

A new reservoir, on the block bounded by Best, Jefferson, Dodge and Masten Streets, was begun in June, 1889, and completed in July, 1894. It has a capacity of over 116,000,000 gallons when filled to a depth of thirty feet, and the surface of the water is then 113 feet above the level of the water at the inlet pier and 685.23 feet above mean tide at New York. As soon as the new reservoir was in use the old one was abandoned and shortly afterward pulled down. Its site is now occupied by the armory of the Seventy-fourth Regiment, N. G. N. Y., one of the finest and most imposing buildings in the city.

According to the reports of the water department the average per capita consumption of water was 319 gallons a day in 1903-04, and 336 gallons a day in 1904-05. This is an enormous consumption—greater than in any other city in the world. The calculation of it is based upon the plunger displacement of the pumps, with an allowance of 10 per cent for slip, or imperfect working of the pumps. But a special commission on water supply, appointed by the mayor in 1905, expressed in its report the opinion that the pumpage thus calculated is largely in excess of the actual pumpage, basing this opinion on the results of meter measurements on one of the larger pumps. If, however, a deduction of 20 per cent is made from the gross measurements, the average daily consumption per capita in 1903-04 would be 280 gallons, and in 1904-05, 300 gallons; and this is enormously greater than that of the largest cities in this country. New York, for instance, pumps 113 gallons per capita daily, Chicago 161.5, Philadelphia 221.9. It is quite certain that a very large part of the water pumped is wasted without doing good to anybody. For instance, in the fiscal year 1904-05, 7,795 buildings were inspected, in which 7,312 leaky fixtures were found; and the repairing of these fixtures made an actual saving by meter measurement of over 4,000,000 gallons a day. Last year a similar inspection of 3,131 buildings disclosed 2,849 leaky fixtures, the repair of which caused a saving of over 2,000,000 gallons a day. It seems likely, therefore, that if all waste could be eliminated the present supply would be not far from sufficient for the city at the present time.

Where meters are not used, the charges vary according to the size and frontage, from \$2.50 to \$9.00 a year, besides a special charge for each bath tub, water closet, hose-sprinkler, etc. The meter rate is six cents a month per thousand gallons for the first 22,500 gallons, and for all over that amount two cents a month for each thousand gallons; but no meter will be furnished unless the annual amount per meter is at least \$5 for a  $\frac{5}{8}$ -in. meter, \$10 for a  $\frac{3}{4}$ -in. meter, and so on in proportion for larger meters.

"The change in our meter ordinance," says Buffalo's official report for 1905-06, "making a lower rate for the smaller meters, has put us in position where the smaller meters could be installed, and we have therefore placed

more meters than in any year previously; but we have still been hampered for lack of funds, or we should have placed a great many more. We have installed during the year 315 new meters, and now have 2,001 meters actively in use.

"The experience of all water departments is that a liberal use of meters causes a reduction in water used and makes a more equitable distribution of the water rates. . . . It does not reduce the legitimate use, but does stop the unnecessary waste, and almost invariably reduces the amount paid for the use of water, and thus becomes a benefit to all concerned."

The special commission above mentioned also says in its report: "While we believe that by a thorough and efficient system of inspection much of the unnecessary waste of water can be prevented, we also feel that this can be but a partial remedy, and that the only perfect remedy is the installation of a meter on every service, not only to limit waste in house services, but to exact equitable rates for water consumed, and to aid in the detection of leaks from street mains and service pipes.

"Yet we recognize that there is a strong prejudice against meters in the minds of many people, and therefore believe it to be better, instead of installing meters on all services at once, to proceed gradually, confident that before long the good sense of the people of Buffalo will indicate clearly to them that it is the proper system to adopt for the distribution of water and collection of water rates, just as it is in the case of gas and other supplies."

To quote again from the report of the special commission above named: "We believe that under ordinary circumstances the water supplied to the city through the present intake and tunnels is wholesome and good, but the evidence is conclusive to our minds that there are times when it is polluted to a degree which imperils the health of the city, and that the causes which produce this pollution are increasing in effectiveness, so that in the not distant future the water from the present source will become much more dangerous. . . . The present intake is sometimes very seriously interfered with by ice, which checks and has almost stopped the flow of water to the pumps, causing great inconvenience to many consumers and a dangerous condition as regards fire. The objections to the present source of supply, intake and tunnel are so great that a new source of supply should be determined upon, adopted and brought into use at the earliest date possible."

The intake and tunnels have been already described. As has been said, there are nine steam pumps and one electric, the last named having been added to the plant in 1905. Most of the others are old, have seen their best days, and are expensive to run. They are housed in a building 640 feet long and 102 feet wide, located at the foot of Massachusetts Avenue, with the Erie Canal on one side and the New York Central Railroad on the other. This entire building has just been rebuilt entirely fireproof. There is a high-pressure service and a low-pressure service, both of which are connected directly with the pumps, which maintain a pressure of about fifty pounds per square inch at the pumps for the low-pressure service and seventy-five pounds for the high-pressure service. Besides this, the large reser-

voir, above mentioned, is connected directly with the former and supplies the mains when the consumption causes a lowering of the pressure from the pumps.

Besides the objections to our present water supply system which have been named above, there is the very serious one that it is the only one we have, and that there is no reserve plant to use in case of accidents. And the possibility of accidents was brought home to us forcibly in 1905 by the fact that a large lumber barge broke away from its tow, floated down the river and was wrecked on the Inlet Pier. It took many weeks to get her off, and many more to repair the damage to the pier. "The damage was worse than we had anticipated," says the last official report of the water bureau, "and very few people realize how close a call they had to having their source of supply cut off completely, so that it would take months to resume its use."

The special commission before mentioned was appointed in 1905 to devise remedies for the defects of the existing system; and in accordance with their recommendations plans have been made and contracts let for the construction of a new pumping station at the foot of Porter Avenue, a new tunnel and inlet large enough to supply 400,000,000 gallons daily to the pumps (this with an eye to the future growth of the city), the inlet to be located in the Emerald Channel, where pollution has been shown by a long series of observations and experiments to be impossible, and a branch tunnel connecting the new station with the old so that the new inlet can supply both. Then, when the new plant is completed and in use, the old intake and tunnels are to be closed so that no water can reach the pumps from them, while the old plant is to be kept as an auxiliary and reserve. The new system, it is estimated, will cost \$2,800,000, and its construction is already under way.

The charter requires the water department to be self-supporting. It must pay all running expenses, including extension of mains and principal and interest of bonds issued for its benefit, out of its own revenues. The extension of the pipes is somewhat hampered by this necessity, as there is always a lack of funds for this purpose. All other obligations must be met first. For instance, there are about eight miles of pipe to be laid, the money for which has not yet been earned. If any surplus were left after meeting these obligations it would be turned into the general fund. But this state of things, according to an official in the comptroller's office, has never occurred since the city has taken possession of the water works.

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#### SAN FRANCISCO, CAL.

By MURRAY GROSS, University of Pennsylvania, Philadelphia.

The City of San Francisco does not own a municipal water plant but is being supplied by a private corporation, viz., The Spring Valley Water Company.

Up to the sixth decade of the past century, San Francisco received its domestic supply of water from watering carts, wells and springs. Supplies for the hand fire-engines were drawn either from the bay or from large

cisterns built at street crossings and kept filled for the use of the volunteer fire department. The serious fires which occurred during the fifties demonstrated the inefficiency of the fire protection, but as the credit of the city did not permit construction of municipal water works, a law was framed, known as the law of 1858, to encourage private enterprises to embark in the business of supplying cities and towns in California with water. For the purpose of regulating the price at which water ought be sold, the law provided that rates should be established by a commission.

Under the protection of the law of 1858 a company was organized with two million gallons daily, but the rapid growth of the city and the increasing demands for water led to the creation of a new company, under the name of the Spring Valley Water Works, by local citizens. This company secured considerable tracts of land and water rights in secluded mountain forests in San Mateo County. On the first of the year, 1865, both companies became one under the name of the Spring Valley Water Company.

Between 1865 and 1905, the population and consumption of water in San Francisco steadily grew. Water was required and demanded everywhere and at elevations varying from sea level up to five hundred feet above tide. With this growth, the reservoir, pumping and pipe system kept pace, so that by the end of 1905, the distributing system showed a net mileage of four hundred and forty-one.

The water sources of the Spring Valley Water Company, as at present developed, may be divided into three separate groups:

First, the Peninsular Reservoir supply, in San Mateo County, comprising three storage reservoirs, with capacities of about 950, 5,500 and 1,900 million gallons, respectively. The water product from these three reservoirs flows by gravity into the distributing system of San Francisco.

Second, the Alameda Creek system. No storage reservoir has as yet been constructed. The present supply drawn from this source is about 15 million gallons per day.

Third, Lake Merced, in San Francisco County, with an area of 400 acres. The average net yield of the lake is about 3 million gallons per day. During the period of four decades from 1865 to 1905 facilities have been developed necessary to bring the daily water supply up to 35 million gallons.

The following table shows the population of San Francisco in round figures for even years from 1870 to 1900, inclusive, and an estimate for 1910:

Year.	Population.	Consumption of Water in Gallons.	Daily per capita Con- sumption
1870 .....	150,000	6,040,000	40
1880 .....	234,000	12,670,000	54
1890 .....	300,000	20,430,000	68
1900 .....	343,000	25,470,000	72
1910 (estimated).	455,000	34,900,000	80

In 1877 the board of water commissioners entered into negotiations with the Spring Valley Water Company for the purchase of its plant, offering the sum of \$11,000,000, but the company declined this offer as not being

within several million dollars of the true value of the works. In Article XII of the new state constitution, adopted January 1, 1880, it became the duty of the board of supervisors of San Francisco to fix the compensation to be collected by any person, company or corporation engaged in the business of supplying water for the use of city, county or the inhabitants.

Section 19 of Article XI of the constitution, as amended in 1885, granted the right to persons and corporations to use the public streets for supplying water to the inhabitants on condition that the legislature shall have the right to regulate the charges.

The legislature of the state at its session in 1881 passed an act providing for the carrying out of the objects of Article XIV by imposing upon the board of supervisors the duty of requiring all persons or corporations engaged in supplying water to file statements each year, showing the names, residence and the amount paid by each rate-payer during the preceding year; the revenue derived from all sources and an itemized statement of the expenditures made for supplying water during the same time. The same act further provided that false statements or refusal by water companies to make statement should be held a misdemeanor; that water rates were to be equal and uniform; and that excess in charging rates should forfeit franchise.

In the year 1900, the new charter of San Francisco went into effect, a very prominent feature of which was a clause providing for the acquisition of a municipal water works system and another empowering the board of supervisors to fix and determine by ordinance the rate of compensation to be collected by any person, company or corporation for the use of water, heat, light, or power, and to prescribe the quality of the service.

As preliminary to fixing and establishing water rates under the provisions of the new charter, the city has had annual estimates made by its engineer as to the value of the properties and works of the Spring Valley Water Company. According to the statements of the company, its properties and works, at the beginning of the year 1901, when the first appraisement was made by the city authorities, should have had a minimum value of \$26,932,485.

In the following table for five years ending 1906 is shown the valuation of the properties of the company by its own officials and by the public officials together with the taxes paid by the company:

YEAR.	A. Beginning year, 1901.	B. Ex- pended by Com- pany for Bet- ter- ments.	C. Sum of A + B. Beginning of year.	Valuation by City Engineers. Beginning of year.	Valuation by Supervisors at beginning of year.	Taxes paid by Company during year.
1901*.....	\$26,930,000	.....	.....	\$24,667,800	\$22,039,722	\$203,257
1902†.....	.....	\$974,732	\$27,904,732	24,468,210	23,014,454	236,828
1903‡.....	735,594	28,640,326	28,024,389	24,124,359	321,537	.....
1904§.....	718,030	29,359,266	24,673,212	23,121,502	348,222	.....
1905.....	402,438	29,821,704	25,001,441	.....	.....	.....
1906.....	510,751	30,332,455	25,450,327	.....	.....	.....

\* Municipal Report, 1901-2, p. 787.

† Municipal Report, 1902-3, p. 509.

‡ Municipal Report, 1903-4, p. 509.

§ Municipal Report 1904-5, p. 499.

It will be noted that the company expended for betterments during the five years from 1901-05 \$3,402,455, but on the other hand that the valuation by the city engineer increased during this period only \$782,527, or less than one-fourth of the sum expended. It may also be seen that while the valuation by the city engineer increased only  $3\frac{1}{10}$  per cent, the taxes paid by the company during 1905 show an increase over taxes paid during 1901 of  $82\frac{1}{10}$  per cent.

The water rates established by the board of supervisors upon the basis of its valuations have been constantly opposed by the company as being below its needs for operating expenses, taxes, interest and essential improvements, and on several occasions their application has been prevented by injunction.

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#### CINCINNATI

By MAX B. MAY, Esq., Cincinnati, Ohio.

Since June 25, 1839, the City of Cincinnati has owned and operated its own water works. Prior to that time water was supplied by private enterprises. The first settlers in 1799 were supplied by Griffin Yeatman from a common well in his garden at twenty-five cents for each family, payable every Monday morning.

In 1802 there was a rival private water works, which consisted of a large cask hauled on a sled. In 1805 water was supplied from a large hogshead on wheels. The first water works were operated in 1820 and consisted of a small wooden reservoir about six feet above the street, which was supplied by a chain pump operated by horse power, and the water was distributed from the tank to casks which were hauled away by consumers.

In 1821 the owner of the water works, which in the meantime had been improved by the laying of wooden mains, offered to sell them to the city for \$30,000, but this was rejected by the popular vote of 294 to 25, and in 1835 a proposition to buy the water works, which in the meantime had been much improved, for \$275,000, was defeated by a vote of 1,274 to 956. Finally in 1838 the city voted to buy the water works for \$300,000 by a vote of 1,573 to 321.

In 1842 Nicholas Longworth urged council to provide a site for a higher reservoir, and offered his Eden Park property at \$500 an acre. Council refused this, but later bought the property for \$30,000 an acre.

Prior to 1896 an agitation was started for a new water works which should be built, and in that year the legislature authorized a commission of five to construct a new water works and to expend \$6,500,000. The commission, consisting of August Herrmann, Maurice J. Freiberg, C. M. Holloway, Leopold Markbreit and W. B. Mellish, secured the opinion of experts, whose report provided for the location of the new water works plant at the village of California, on the Ohio River, about twelve miles from the center of the city. The main plans of the new water works are as follows: A low-service pumping station and intake situated immediately below the village of Cali-

fornia, with an intake tower on the Kentucky side of the Ohio River connecting the same with the pumping station by a tunnel to be driven under the river bed. The water from this station is delivered through two 60-inch diameter force mains to two large subsiding reservoirs, located on high grounds back of the village of California. These subsiding reservoirs have a total capacity of 300,000,000 gallons of water. Adjacent to these reservoirs are coagulating basins. Thence the water by slow gravity enters sand filters, from which the water enters a clear well water reservoir, and thence through another tunnel, through which it is delivered to the high-service pumping station, which is located about four and one-half miles west of the intake. From this station it is pumped into the present Eden Park reservoir and distributed throughout the city. It is expected that filtered water will be furnished by January 1, 1908, latest.

It was soon found that the original cost of \$6,500,000 would not be sufficient, and additional legislation was secured authorizing a further expenditure of \$3,500,000. It now appears that it will require about an additional million dollars to complete the work, and a committee of citizens has recently reported in favor of legislation providing this additional amount.

The supply at present is, of course, adequate, and will be for very many years to come. It is difficult to estimate the charges to consumers, inasmuch as various businesses gave different rates. The average dwelling house consists of from nine to twelve rooms, and costs about \$6.50 a year. Of course factories, bakeries, laundries, etc., have special rates which it is impossible in this brief report to state. Meters are furnished and consumers are charged  $7\frac{1}{2}$  cents per 100 cubic feet, irrespective of the quantity consumed, with a minimum rate of 2 cents per day.

The average daily per capita consumed under the old water works was 140 gallons. This was due to the condition of the old pumps. Under the new water works the average daily per capita consumed is about 125 gallons. The experience with water meters has not been satisfactory. This is due to the fact of the charge of the minimum 2-cent rate per day. The average consumer using the meter finding that he has to pay this minimum charge, wastes as much water as he did without the meters.

Prior to January of this year water was furnished from the old pumping station on East Front Street, the water there being much contaminated by sewage which enters the river many miles above. This naturally caused much typhoid fever throughout the city. Since the water has been pumped by the new works at California, the intake of which is above the city, the number of cases of typhoid has greatly decreased, and it is expected by the health authorities that when filtered water is furnished there will be an additional decrease of this dread disease. Of course the present condition of the works, which have just been completed, is excellent and will undoubtedly remain so for many years.

The water works pays its own expenses, and also provides a sinking fund for the redemption of the \$10,000,000 water works bonds now outstanding. The estimated receipts for the water works department for the year 1908 from all sources will aggregate close to \$1,100,000. Out of this sum

there is used \$354,955 as interest on \$10,000,000 of bonds, \$21,295.75 old charges. One hundred and forty thousand dollars are put aside annually for sinking fund purposes. The approximate cost of operating and maintaining the new plant, including the filter, will be \$275,000, and the costs of the controller, assessor and collection division, repair and extension department about \$220,000. Within forty years therefore at the present rate the entire water works should be paid for.

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#### NEW ORLEANS

By JAMES J. McLoughlin, Esq., New Orleans, La.

The water supply system of New Orleans is at present in a state of transition, and it is somewhat difficult to present a satisfactory summary of the situation.

The present system was constructed by a private corporation which had been granted a fifty-year monopoly that would expire in 1927. But some seven or eight years ago, the company's extortions, unfairness and general inefficiency were so unbearable, that a suit was brought which resulted in the forfeiture of the company's charter, and the abolition of its monopoly. The company is now in the hands of a receiver, and its property will soon be sold at public auction to effect a final liquidation. When that is done, the present water supply system will cease to exist. As a matter of public order and necessity, the receiver is operating the system by sufferance of the municipal authorities, as all realize that it would be a public calamity to shut off the city's water supply.

The city is at present busily engaged in constructing a water system, under a special tax levied to pay for the same. This system will be owned and operated by the city, and will be in operation by the end of 1908. Until then, the present inadequate pipes of the receiver will have to be utilized. When our water system was first devised, some seventy-five years ago, it was established as a private monopoly; operating as such for some thirty years, it was then bought out by the city, and for about ten years the city ran it. The disastrous results of the Civil War, and the ten-fold more disastrous afflictions of the reconstruction period, so exhausted the city's ability to make needed repairs and improvements to its municipal utilities, that in order to have the system kept going, in 1877 the water system was transferred to a private corporation with a fifty-year monopoly right. The corporation took charge of a system of some sixty miles of pipes, and from the very start adopted a system of "get-all-you-can" out of its franchise, instead of a wise extension of facilities. When its charter was forfeited, after thirty years of profitable operation, its pipe mileage had increased only seventy miles, and it was still supplying the raw muddy water of the Mississippi River, without filtration or even settling. The supply was totally inadequate to the needs of the population. The charges to the consumers were grossly extortionate, and discriminative, some consumers paying one-half what others, less favored, had

to pay for similar service. Water meters were not allowed unless to large consumers, and then the meter had to be installed at the consumer's cost; but the meter measurement was a farce, because, as was shown on the trial for the forfeiture of the company's charter, the meter registered in cubic feet, and to one consumer, the company would bill the supply at eight gallons per cubic foot, to another at ten gallons, and to some unfortunates twelve gallons per foot. The city had no control whatever over the charges, or the accounts, of the company. True, a minority of the board of directors was composed of city officials, but in practice these city members were ignored, or else neglected their duties. In fact, the water supply for this great city, on the banks of a great river, with an inexhaustible supply of good water, was grossly inadequate. Therefore, simultaneously with the enactment of the legislation which resulted in the forfeiture of the company's charter, the people of New Orleans, by proper taxation, issued sewerage and water bonds to the extent of twenty-four millions of dollars, which fund is being spent in seweraging and draining the city, and in erecting a modern water system. Work was begun some five years ago, and is now well on toward completion.

This paper is not concerned with the sewerage and drainage improvements, which are now in partial operation, to the great satisfaction of the people, and I will not devote any space thereto, beyond saying that they form parts of one comprehensive whole, whose completion will make of New Orleans one of the most desirable cities in America for the health and comfort of those who dwell therein.

New Orleans is situated on both sides of the Mississippi River, and draws its public water supply from that river. Under the plans now being carried out, there will be a system of 453 miles of pipe, that will supply pure, filtered water throughout the city. The capacity of the works will be sufficient to provide for a per capita consumption of 100 gallons of filtered water. Water meters will be supplied to consumers who desire them. The rates for water must be fixed at such a price as will furnish the water at cost, as no profit is to be made by the city from the sale of water. Water for the sewerage system will be supplied the householder free.

The cost of this system is fixed at \$6,718,945.20. Of the 453 miles of pipes 145 miles have been completed, or are now nearly completed, and contracts for 308 miles will be let this year. The machinery for the main distribution and filtration station has been bought, and that station is in course of erection. With the completion of this comprehensive set of plans, New Orleans will have one of the best water systems in the country. The water of the Mississippi River is well known for its freedom from impurities—the sand, or silt, which forms so great a part of its volume not being rated an impurity,—and after it is filtered to remove the mud, or sand, it becomes pure and limpid. The volume of water is so great, that we will never fear diminution of supply. And we need no extensive watershed to collect into our reservoirs the water required. With so favorable a situation, the people of New Orleans congratulate themselves that they have solved to their complete satisfaction that greatest problem of modern cities—a pure and adequate water supply.

**DETROIT**

By DELOS F. WILCOX, Ph.D., Secretary Municipal League, Detroit, Mich.

The public water supply of Detroit has been under the management and control of the city from the beginning. A board of trustees was first appointed by the common council on February 24, 1852. In the following year a special act approved by the common council was passed by the legislature establishing the "Board of Water Commissioners of the City of Detroit." This board was to consist of five members appointed by the common council, the first commissioners to serve for three, four, five, six and seven years respectively, their successors to be appointed for terms of five years. According to this arrangement one new commissioner would be appointed every year. This plan has been followed up to the present time, except that the appointment of the commissioners was some years ago transferred from the council to the mayor, but subject to confirmation or rejection by the council.

During the fifty-four years since the board of water commissioners was established forty-two different individuals have served as commissioners. During the last twenty years comparatively few have been reappointed at the expiration of their terms, but in the earlier days the continuity maintained in the personnel of the board was remarkable. During the first year of the board's operations, 1853, Mr. Edmund A. Brush was chosen president. He was re-elected every year until 1868, when Alexander D. Fraser, who had served on the board continuously from 1855, was elected president. Mr. Fraser served for three years. In 1871, Mr. Jacob S. Farrand, who had been a member of the board since 1865, was elected president, and served for one year. He remained on the board, however, and was chosen president again in 1880, and served continuously in that capacity until July 9, 1890. From 1872 till his death, in 1885, Chauncey Hurlbut served as president of the board. He had been a member of the board for four years prior to his election to the presidency. Since 1890 the board has had fourteen different presidents.

Under the act providing for the board of water commissioners this department of the city government is rendered almost altogether independent of the common council and the mayor. While it is true that the common council has authority to remove any water commissioner by a two-thirds vote upon charges and after a hearing, the water commissioners are not required to submit their estimates to the common council or board of estimates, nor to report their financial transactions to the city controller. The debt of the water board is independent of the general city debt, and is not included in the statutory debt limit. The city pays to the water board a lump sum of \$75,000 every year for interest and sinking fund and in return receives without charge water needed for public purposes. Out of this fund and the receipts from water rents the department itself takes care of the water debt, both principal and interest, and pays the current expenditures of the department.

The water supply is taken from the Detroit River, and is unlimited in quantity. All the conditions are favorable for low rates, as the site of the city is almost level and only a few feet above the level of the river. The following are the rates charged to consumers:

*For Metered Water.*

Minimum rate \$1.75 per quarter, \$7.00 per year. For first 30,000 gallons used, per quarter, the minimum rate. All in excess of 30,000 gallons, per quarter, 2½ cents per thousand gallons.

*Assessment Rates per Annum.*

For each family for general household purposes, \$2.60; for one bath-tub, \$1.00; for each additional bath-tub, 60 cents; for automatic water closet, \$1.60; for each additional closet, 60 cents; for each hand wash basin, 48 cents; for hose bib or connection, premises 30-feet front or less, 60 cents; for hose bib connection, premises 30-feet to 60-feet front, 80 cents; for hose bib connection, premises 60 feet to 100 feet, \$1.60; for livery and private stables, for each horse, \$1.20; for dray and team horses, each, 60 cents; for cows, each, 60 cents; for stores and offices, \$1.00 to \$12.00; for bakeries, average daily use for each barrel of flour, \$2.00; for grocery and provision stores, from \$3.00 to \$50.00; for saloons, \$6.00 to \$50.00; for bar with faucet, from \$8.00 to \$50.00; for fish houses, from \$6.00 to \$50.00; for beer pumps, \$2.00; for barber shops, for each chair, \$2.00; for hotels and taverns, in addition to family rate, for each room, 60 cents; for boarding school's, \$4.00 to \$50.00; for butcher stalls, each, not less than \$3.00; for workshops, for ten persons or under, \$3.00; for workshops, for each additional ten persons, \$1.00; for boarding houses in addition to family rate for each roomer or boarder, 40 cents; for building purposes, for each one hundred yards plastering, 5 cents; for each perch stone, 1 cent.

Special rates are given for green-houses, slaughter-houses, printing-offices and lawns of more than 100 feet frontage. Street sprinklers have to pay \$50.00 each wagon. Fountains pay from \$5.00 to \$20.00. Where more than one family live in the same house and are supplied through the same faucet, the second and each additional family has to pay \$1.40 a year for water for general household purposes.

The average number of gallons pumped per day during the fiscal year ending June 30, 1906, was 61,357,019, of which 18,239,174 was metered and the balance unmetered. The estimated number of persons supplied was 383,697, making a total per capita consumption of 159.9 gallons per day. This includes all of the water pumped, whether used for public purposes, for manufacturing, for hotels, for ordinary family use, or for any other purpose. The board supplies several outlying villages with metered water. The board lays the mains, but the expense is paid by the village authorities. The village authorities also pay for the water, and collect from individual consumers as they see fit. The average amount of water supplied in this way to outside villages was 500,657 gallons per day. The average daily pumpage has increased from 1,030,866 gallons in 1853 to 61,357,019 gallons in 1906, while the population of the city has increased from 20,000 in 1850 to approximately 263,000 in 1906, which shows that the pumpage of water has increased more than three times as rapidly as population. The average amount pumped for each family supplied in the year 1853 was 70,868 gallons. This average increased to 271,607

gallons in 1906. The pumpage per family reached its highest point in 1888, when 390,098 gallons were furnished on the average.

The total number of families supplied in 1906 was 80,848. The total number of meters in use was 6,346. As a general rule all business places are supplied with meters, and meters are installed in private residences wherever there is evidence of great waste. Of the total pumpage approximately two-sevenths passed through the meters. The revenue from metered water amounted to \$0.0285 per thousand gallons while the balance of the revenue gave only \$0.019 per thousand gallons of unmetered water.

The water supply of Detroit is exceptionally pure and wholesome. Taken from a deep, broad river only a short distance below Lake St. Clair, which is supplied from the Great Lakes Huron, Michigan and Superior, Detroit's water supply would be among the best in the world, if it were absolutely protected from pollution by the cities, villages and summer resorts along the Detroit River and Lake St. Clair. The city has recently annexed a suburb to the east mainly for the purpose of controlling its sewage. The board of health feared that even the slight amount of sewage drained into the river from this village might possibly contaminate the city's water supply. The total death rate per thousand estimated population during the year 1906 was eighteen. The average typhoid fever death rate during the past five years has been twenty per one hundred thousand population.

The present condition of the Detroit water works is, generally speaking, excellent. The total receipts, exclusive of loans, during the last fiscal year amounted to \$676,604.80, of which \$501,351.44 was from water rates and \$75,000 from the general tax levy already mentioned. About \$55,000 was received from outlying villages for laying water pipes. The total expenses for the year as reported by the secretary were distributed as follows:

Operation and maintenance .....	\$156,195.36
Interest on debt .....	46,278.00
Purchase of real estate .....	21,156.85
Bonds paid off .....	189,000.00
For construction .....	370,937.68

The total amount of water bonds outstanding July 1, 1906, was \$966,000. In addition to this, \$1,834,000 had been redeemed or refunded since the establishment of the system. The estimated valuation of the property of the water works is as follows:

Real estate .....	\$ 462,828.60
Pumping station, including buildings, tunnel, intake, machinery, etc. ....	2,633,815.95
Water pipe in use .....	4,836,451.79
Meters in use .....	110,966.48
Furniture and fixtures in offices.....	9,466.01
Tools and materials .....	119,319.66
 Total .....	 \$8,172,848.49

There are now 683 miles of water mains in use; 8,014 gates; 4,355 fire hydrants; 558 fire cisterns and 73,699 service taps. The average head against the pumps is 120 feet. The average pressure is 52 pounds on the low service and 62 on the high service. About nine-elevenths of the water is supplied through the low pressure system.

There are at present no large plans for improvement on foot so far as water works construction is concerned. The city proposes, however, to build an intersecting sewer to take care of the sewage of the village of Fairview, recently annexed, so as to avoid any possible danger of contaminating the city's water supply.

On the side of the management and supervision there is a movement on foot to require the water board to submit its estimates and to report its financial transactions to the city authorities just as all other departments do. For some reason the board of water commissioners is very jealous of its financial independence and thus far has successfully resisted the attempt to reduce this department to the same organic relations with the city sustained by the public lighting commission, the board of health the board of education and other departments of municipal work.

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#### **WASHINGTON, D. C.**

By DANIEL E. GARGES, Secretary to the Engineer Commissioner of the District of Columbia.

The water supply of the City of Washington is brought from the Great Falls of the Potomac River, in the State of Maryland, about twelve miles from the City of Washington. The first steps towards furnishing the city with water were taken about the year 1852, when an appropriation was made by Congress for the necessary surveys. The first appropriation was made towards the work in 1855, and was for the construction of the necessary conduits and reservoirs. The work was completed about 1858. It was originally contemplated only to supply buildings of the United States Government located in the City of Washington, which, until that time, had been supplied with water from wells. By an act of Congress, approved March 3, 1859, however, Congress provided that the inhabitants of the corporations of Washington and Georgetown should be allowed to lay the necessary mains in the streets of the two cities and levy a water tax therefor, and to connect these mains with the mains belonging to the United States. Authority was also given the corporations to make regulations regarding the distribution of the water and to establish a scale of annual rates for the supply and use of same, provided no expense devolved upon the United States, and it was further provided that when the supply of water was found to be no more than adequate to meet the wants of the United States Government, the supply to the citizens should be cut off.

This is the arrangement under which water is at this day supplied to the City of Washington. The control of the source of supply and the conduits,

reservoirs, and appurtenances, is under the chief of engineers of the United States army, acting for the United States Government, and the distribution of the water to the citizens of the City of Washington and District of Columbia is under the control of the commissioners of the District of Columbia. There has recently been constructed a filtration plant, through which all of the water supplied passes before it is delivered to the authorities of the District of Columbia for distribution, and this plant is under the jurisdiction of the chief of engineers. The pumping station of the District is located adjacent to the filtration plant, and the water is delivered to this pumping station and distributed from it to all points in the city and District. This station is controlled by the district commissioners.

The cost of bringing the water from Great Falls to the city was \$12,000,000, and the expense was borne by the United States. The cost of the distribution system was about \$8,000,000, and was paid for entirely from the water taxes and water rents levied upon the citizens of Washington. The cost of the filtration plant was about \$3,000,000, and it was paid for one-half by the United States and the other half from revenues of the District of Columbia. The capacity of the filtration plant is 75,000,000 gallons daily, and the average consumption is 68,000,000 gallons daily. While the supply is adequate at the present time, it is dependent upon one conduit, which brings the water from Great Falls, and in case of anything happening to this conduit, which was built about half a century ago, the water supply would be cut off. Both the chief of engineers and the commissioners have urged upon Congress the necessity for the construction of an additional conduit, but no appropriation has yet been made for the purpose.

The average daily per capita consumption is 200 gallons. This is palpably excessive, and is due in part to leaks and wastage. In order to prevent such wastage and also to establish a more uniform system of water rates, the commissioners are installing water meters. About 4,000 of such meters have been installed in private residences, and they have been required for a long period in business and manufacturing establishments and other establishments using large quantities of water. At present, however, and until the installation of water meters in private residences is completed, the charges to the consumers are based on the number of stories and frontages of the houses.

On all premises two stories high, with a front width of 16 feet or less, the charge is \$4.50 per annum, and for each additional front foot, or fraction thereof, there is an additional charge of thirty cents per annum. For each additional story, or part thereof, the above rates are increased by one-third. This system of charging for water has never been satisfactory, however, and is abandoned as meters are installed. The rate for water supplied through meters is three cents per hundred cubic feet.

The experience of the city with water meters in business and manufacturing establishments and in private residences as far as they have been installed, has been very satisfactory, both as to preventing unusual consumption and as forming a better basis upon which to make charges to consumers. The regulations as to the installation and use of water meters are

given below.<sup>2</sup> In this connection it should be stated that the meters in business establishments are installed and paid for by the owners of the property, while those in private residences are paid for out of the water revenues. These revenues are made up from rentals received for the use of water and assessments levied for the laying of mains. The rate of assessment is \$1.25 per front foot of property abutting on the main, and this frontage is considered as serving the lot to a depth of 100 feet. All frontage of corner lots over this amount is assessed as additional frontage.

The distribution system is supported entirely from the water revenues and by provision of law the revenues shall not exceed the cost of furnishing water, so that there are no profits on the system. The rates to consumers are adjusted, however, from time to time, and recently were increased 25 per cent in order to pay for necessary extensions of the water system to the outlying sections of the District. With this increase, however, the rates are lower than in other cities with a population equaling that of Washington.

As before stated, the conduit bringing the water to the City of Washington is old, and a new conduit is very badly needed. The balance of the system, however, both of supply and distribution, is in excellent condition, and the only improvements contemplated are the extension of the supply to places, where water is not at present furnished.

**<sup>2</sup>RULES AND REGULATIONS OF THE DISTRICT OF COLUMBIA CONCERNING WATER METERS.**

Authority is vested in the Commissioners of the District of Columbia by acts of Congress.

I. The supply of water shall be determined by meter to all manufacturing establishments, hotels, swimming baths, and all premises for business purposes on which the water rent, according to the schedule of rates, is twenty-five dollars or more per annum.

II. Every water meter before being placed shall be sent, with a memorandum of the owner's name and the location of the premises where the meter is to be used, to the water department, for testing.

III. Consumers are required to keep their meters and appurtenances in repair at their own expense.

IV. All meters and appurtenances shall be placed at the consumer's expense.

XI. No water from the mains shall be introduced or used on premises supplied through water meters excepting that which passes through the meter.

XIX. The rate to be charged for water supplied through meters shall be three cents a hundred cubic feet.

XX. A minimum rate of four dollars and fifty cents (\$4.50) per annum, to be charged quarterly, will be made against all premises supplied with water by meters.

Attention is invited to the following act of Congress:

"That any person who, with intent to injure or defraud the District of Columbia, shall make or cause to be made, any pipe, tube, or other instrument or contrivance or connect the same or cause it to be connected with any water main or service pipe for conducting or supplying Potomac water in such manner as to pass or carry the water, or any portion thereof, around or without passing through the meter provided for the measuring and registering the Potomac water supplied to any premises, or shall without permission from the Commissioners of the District of Columbia, tamper with or break any water meter or break the seal thereof, or in any manner change the reading of the dial thereof, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by imprisonment not exceeding six months or by a fine not exceeding two hundred and fifty dollars."

The above rules went into effect August 17, 1906.

Prior to the installation of the filtration plant it had been claimed that the Potomac water was the cause of the greater proportion of the cases of typhoid. After the plant was installed and put in operation there was not a very perceptible decrease in the number of cases, and the medical authorities looked around for other causes. An investigation by the United States Marine Hospital service showed that the fifty shallow wells which were located in various parts of the city and suburbs were polluted, presumably from sewage contamination, and all these wells have been recently closed. Another cause was claimed to be the milk supply, and steps have been taken to regulate the cleansing of cans, utensils, etc., at the dairy farms and to prevent the use of water from polluted wells for this purpose.

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#### PROVIDENCE

By FRANK E. LAKEY, Boston, Mass.

The water supply of Providence has never been furnished by private enterprise. Prior to the installation of the present system of public water works, several firms and families combined to obtain a water supply, but no agreement to supply the whole city from private sources has ever been attempted.

The history of the establishment of municipal water works is a brief one. During the sixties (1869) the Pawtuxet River was tapped, and, notwithstanding the growth of the city, still furnishes an abundance of really good water. The establishment of Hope, Fruit Hill and Sockanosset reservoirs gives sufficient head, while the installation of high-pressure services (composed of ninety-two flush hydrants), protects the numerous manufacturing plants against fire.

The water is pumped from the Pawtuxet River on to slow sand filters, situated on the opposite side of the river from the regular pumping station. It is carried under the river to the pumping station by gravity. It is pumped into a storage reservoir located upon a hill about one mile distant and 181.75 feet above the river. From this reservoir it flows into the city by gravitation, directly supplying a second storage reservoir within the city limits, and also that portion of the city which is of sufficiently low elevation to be served by gravitation. To supply that part of the city of too high an elevation to be served by these reservoirs, a third reservoir is located in the town of North Providence. The water is pumped by supplementary pumping machinery from the second reservoir above mentioned, or from the mains, into the high-service reservoir. This supplementary pumping machinery can also supply the high-service district, if the reservoir should be out of service, by pumping directly into the mains. In addition to the regular distribution pipes there is an independent high pressure fire system (deriving its supply from the high service) for protecting an area of about one-half of one square mile in the center of the business portion of the city.

The supply seems to be adequate for all demands for many years.

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Other streams within twenty miles can be drawn on later if necessary, and use could be made of the salt water of the bay for fire purposes if urgently needed. The present filthy condition of the water in the upper bay, known officially as the Providence River, makes this last use one to be employed only in the last extremity.

The receipts for water rents for 1906 were \$708,747.93, an increase over the previous year of \$20,875.22. The net cost of the water works for construction from November 8, 1869, to January 1, 1907, is \$7,228,867.84, upon which there has been a revenue for water sold of \$13,273,770.12. The net debt September 30, 1906, was \$4,072,915.52. The excess of receipts over management and interest in 1906 was \$22,867.13.

The charges to consumers for all water consumed through a single tap up to \$600 in value is two cents per 100 gallons. If in excess of \$600, one and one-half cents per 100 gallons, provided that in no case where a meter is used the annual charge shall be less than \$10.

The use of meters has reduced the waste 85 per cent. The average daily consumption is sixty-eight gallons per capita. The average daily use per service pipe, of which there are 25,094 in use, has been 600 gallons in 1906, or 15,003,600 gallons. Twenty-one thousand eight hundred and fifty-two meters are used by a population of 219,800, of which the estimate for the city is 203,000, and for the suburbs, 19,800.

The public health of Providence has been excellent for years. Since 1884 the superintendent of health has kept very full and accurate statistics of the cases of typhoid fever. In the twenty-three years last past, one outbreak has been traced to polluted city water. This occurred in 1888. In November, 1891, an outbreak was suspected to be due to the infection of the city water supply, but this was not proven. The supply is taken below a number of manufacturing villages, containing many foreigners, whose habits are sometimes open for criticism. Since 1855 the highest ratio (149 in 100,000) was in the year 1865, at the close of the Civil War. The next highest was in 1882 and 1883 (122 and 109), and the third in 1888 (83). Since that date the ratio has steadily fallen. Hence the superintendent, in his report for 1903, says: "It is improbable that the source of the water supply has been specifically contaminated except on three or four occasions, and that on the whole it has furnished an excellent supply. The fall in the death rate from typhoid fever may be fairly attributed to the introduction of city water." During 1906 the city water has been filtered. The beds are now being covered by wooden frames for the good of the service.

The following table shows the removal during the year of 97.3 per cent of the bacteria of the river water forming the water supply:

## MONTHLY AVERAGE OF BACTERIA PER CUBIC CENTIMETER.

(48-hour counts on 10 per cent gelatine media.)

MONTH.	RIVER WATER.			FILTERED WATER.			Percentage Removed.
	Max.	Min.	Ave.	Max.	Min.	Ave.	
January .....	3,250	400	1,068	264	6	38	95.4
February .....	5,200	400	1,572	180	8	52	96.
March .....	3,500	250	723	215	7	54	92.5
April .....	2,800	400	1,019	164	5	31	95.5
May .....	4,000	400	1,915	119	3	12	99.2
June .....	3,100	200	1,033	91	3	16	98.3
July .....	1,500	500	1,047	31	2	7	99.2
August .....	7,500	400	1,450	129	2	10	98.7
September .....	5,000	250	1,302	190	2	12	98.8
October .....	5,000	600	1,636	181	2	18	98.5
November .....	4,800	600	1,776	135	5	25	98.5
December .....	2,000	300	1,016	99	6	24	97.2
Averages ..	.....	.....	1,346	.....	.....	25	97.3

The present condition of the works is satisfactory. Electrolysis is causing damage in certain localities. In some cases meters have been destroyed and service pipes damaged through this evil.

The profits are paid into the sinking fund. This fund, on September 30, 1906, amounted to \$360,084.44. The profits since the installation of the service have been \$1,887,563.14. For the past ten years the profits have been:

1897 .....	\$87,074.95	1902 .....	250,582.95
1898 .....	88,638.42	1903 .....	260,507.58
1899 .....	100,959.64	1904 .....	275,961.55
1900 .....	127,357.47	1905 .....	125,900.73
1901 .....	252,761.38	1906 .....	22,867.13

The great shrinkage in the past year has been due to the very costly improvements made.

## DULUTH

By W. G. JOERNS, Duluth, Minn.

The ANNALS of January, 1906, contained an article by the present writer on the gas service of Duluth under municipal management. As the gas service of Duluth is operated by the municipality in connection with its water service and was acquired by purchase from the private interest in connection with the water service, as one transaction, a description of one necessarily contained much that pertains to both. Reference is therefore made to the article in the January ANNALS aforesaid for a general history of the establish-

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ment of the water supply of Duluth as well as to details of management, and here again attention is called to this plan of management, unique in many of its features, as a valuable source of suggestion to any municipality contemplating the municipalization of any public utility. Suffice it to say here, that the record of the private company was one of poor service, extortionate and discriminating charges, an impure water supply which became a serious burden on the health of the community, and a most corrupting influence in the political life of the community. The fight against the unsatisfactory and predatory private interest by the patriotic and more enlightened part of the community was a long and bitter one. The plant was finally municipalized in 1898; and the record since then, under municipal management, has been an unbroken line of successes. The source of supply was immediately changed and the people of Duluth have, under municipal management, been furnished water that in its excellence and purity challenges all comparison. Vast extensions of the system have been developed. The pipe lines have been more than doubled, the reservoir capacity increased sixfold since the city took charge of the plant, and the rates have been reduced to practically one-half the rates that were charged under the private management. The cost of service extensions and other incidental charges have likewise been reduced in proportion. The gas and water plant combined was originally purchased by the city for \$1,250,000. The present bonded indebtedness of the city on account thereof, as shown by the last annual report, is \$2,866,000. Both gas and water plants have at all times been maintained in a high state of efficiency and repair. Old pipe and machinery have been replaced by new, and the plant entire is to-day in the highest possible state of preservation. Attention is also called to the further important fact that, notwithstanding the reduction in rates and other savings to the consumer, there has been accumulated a surplus of approximately \$140,000; and this surplus, instead of being allowed to lie idly in a sinking fund, has been expended upon the extensions of the plant. The combined water and gas plant was, in the last annual statement, inventoried at \$2,955,000.

The present reservoir capacity of the plant is approximately 30,000,000 gallons. The average daily consumption is about 5,500,000 gallons, supplying approximately 50,000 consumers. The pumping capacity is four times the present rate of consumption, one-half thereof being in the shape of a steam, the other in the nature of a newly installed electric pumping plant.

The experience of the department with water meters has been very satisfactory, and it is seeking to extend the use thereof as much as possible. In fact two-thirds of all newer extensions are metered, and as fast as opportunity offers the older consumers are placed on the meter basis. It is the rule of the department that, once so placed, they are not permitted to return to a flat rate basis; and this rule has been upheld in the courts.

Under the careless and insolent management of the private company, the water supply became contaminated and a deadly menace to the public health. Epidemics of disease were directly traced to the contaminated water supply, and this fact had much to do with the creation of the public sentiment which finally resulted in a purchase of the plant by the municipality.

One of the first steps, under the municipal control, was to provide a pure water supply by the building of an extensive supplementary system. The water furnished the consumers since that time has been absolutely wholesome.

As before stated, the present condition of the works is first class. When first the plant was acquired from the private company it was in a rundown condition; but old and defective pipe and machinery has been replaced by new and modern material, and that part of the plant is to-day in a condition immeasurably superior to that in which the city found it when first acquired. Indeed it is the aim, as it has been the custom, of the department to maintain the entire works in the highest possible state of present efficiency and to make all renewals, repairs and substitutions with this aim constantly in view. It might be well to suggest at this point that about seven miles of force main, from the present pumping station to the main reservoir, is of 42-inch steel pipe construction. Serious question has, in doleful voice, been raised from time to time as to the probable life of this steel pipe, and the prophecy, in this regard, of the divergent special interest and of those financially and constitutionally opposed to municipal ownership, has been particularly dire. Recent investigation has, however, disclosed that this pipe, though nine years in the ground, is apparently answering every expectation of a long life, with the possibility of comparatively easy repair as occasion from time to time may demand.

The department has accumulated a surplus of approximately \$140,000, which has been expended in extensions of the plant. This surplus was accumulated in the face of a reduction of the rates by one-half and a saving to water consumers in nine years of municipal service of over a half million dollars.

The topography of Duluth is peculiar in that very unusual heights of elevation are to be supplied. The main plant and reservoir system aims to supply all territory up to 200 feet above lake level. A secondary system, called the hillside system, is being installed which will supply an additional territory to the height of 550 feet above the lake level, and will require a repumping from the reservoirs. A still higher system, called the Hunter's Park system, and supplying a suburban residence section of the community, has also been installed. This system supplies territory to a height of 700 feet and requires a second repumping.

To sum up, Duluth, under municipal management, has developed a water and gas system second to none in the country as to plan, efficiency and substantial results. It would well repay any student of municipal economics to give the municipal plants of Duluth and their record a personal investigation.

## BOOK DEPARTMENT

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### NOTES.

**Abbot, H. L.** *Problems of the Panama Canal.* Pp. xii, 269. Price, \$1.50.  
New York: Macmillan Company, 1907.

See "Book Reviews."

**Alexander, E. P.** *Military Memoirs of a Confederate.* Pp. xviii, 634. Price, \$4.00.  
New York: Charles Scribner's Sons, 1907.  
See "Book Reviews."

**American Economic Association.** Papers and Discussion of the Nineteenth Annual Meeting. Pp. 266. Price, \$1.00. New York: Macmillan Company, 1907.

**Barker, E.** *The Political Thought of Plato and Aristotle.* Pp. xxii, 558.  
Price, \$3.50. New York: G. P. Putnam's Sons, 1906.  
Reserved for later notice.

**Bond, B. W., Jr.** *The Monroe Mission to France, 1794-96.* Pp. 104. Baltimore: Johns Hopkins Press, 1907.

**Bruce, Philip A.** *Economic History of Virginia in the Seventeenth Century.* Two vols. Pp. xxv, 1281. Price, \$5.00. New York: Macmillan Company, 1907.

Students of American economic history have long since come to regard Mr. Philip A. Bruce's work on the "Economic History of Virginia in the Seventeenth Century" as a standard treatise. The two-volume work first appeared in 1895, and was carefully reviewed in Vol. VII of *THE ANNALS*, by Professor Henry R. Seager, who stated, among other things, that "every page testifies to the patient research and scholarly accuracy of the author and entitles the work to rank with the best production of this age of historical investigation." The researches of historians during the past twelve years have tended only to confirm Professor Seager's estimate of Mr. Bruce's work. It is interesting to note that a reprint of the two volumes has become necessary. The new edition is the old one reproduced without change. Revision was unnecessary.

**Bullock, C. J.** *Historical Sketch of the Finances and Financial Policy of Massachusetts, from 1780 to 1905.* Pp. 144. Price, \$1.00. New York: Macmillan Company, for American Economic Association, 1907.

**Butler, J. W.** *Mexico Coming into Light.* Pp. 101. Price, 35 cents. Cincinnati: Jennings & Bryan, 1907.

**Butler, N. M.** *True and False Democracy.* Pp. xii, 111. Price, \$1.00. New York: Macmillan Company, 1907.  
Reserved for later notice.

**Clarke H. B.** *Modern Spain, 1815-1898.* Pp. xxvi, 510. Price, \$2.00. Cambridge University Press.  
Reserved for later notice.

**Doyle, J. A.** *English Colonies in America.* Vols. IV and V. Pp. xvi, 447, and xvi, 497. Price, \$3.50 each. New York: Henry Holt & Co., 1907.  
Reserved for later notice.

**Forrest, J. D.** *The Development of Western Civilization.* Pp. xii, 406. Price, \$2.00. Chicago: University Press, 1907.

**Griffis, W. E.** *Corea.* Pp. xxvii, 512. Price, \$2.50. New York: Charles Scribner's Sons, 1907.  
*Guide Social, 1907.* Pp. 363. Price, 2 fr. Paris: V. Lecoffre, 1907.

**Guthrie, W. V.** *Socialism before the French Revolution.* Pp. xviii, 339. Price, \$1.50. New York: Macmillan Company, 1907.  
Reserved for later notice.

**Hadley, A. T.** *Standards of Public Morality.* Pp. 158. Price, \$1.00. New York: Macmillan Company, 1907.  
Reserved for later notice.

**Hull, W. H. (Ed.)** *Practical Problems in Banking and Currency.* Pp. xxvi, 596. Price, \$3.50. New York: Macmillan Company, 1907.  
Reserved for later notice.

**Hume, Martin.** *Through Portugal.* Pp. xiv, 317. Price, \$2.00. New York: McClure, Phillips & Co., 1907.  
Typography, illustrations and diction combine to make the reading of this book a pleasure. The author takes us on a leisurely saunter through one of the most picturesque of European countries, one as yet unappreciated by the great stream of pleasure-seekers and which, on that account, is the more enjoyable. The easy, flowing style of the book takes one from one scene to another without effort, and the vivid descriptions enable the reader to "see without traveling." The peculiar charm of the Iberian countries is felt, and admirably portrayed. The pride in the past, the decadence of the present and the contrast of contented indolence and sturdy industry are everywhere present in Portugal.  
Thirty-two excellent reproductions of studies in water color brighten the pages of the book. These also have caught the "atmosphere" of the country.

*Illinois, Railroad and Warehouse Commission of the State of.* Pp. 509. Springfield: Illinois State Journal Co., 1906.

*Illinois, Special Report of the Railroad and Warehouse Commission of the State of, 1902-1906.* Pp. 402. Springfield: Illinois State Journal Co., 1906.

*Industries Céramiques.* Pp. xvi, 232. Brussels: J. Lebègue et Cie, 1907.

**Jacob, Robert Uri.** *A Trip to the Orient.* Pp. vi, 392. Price, \$1.50. Philadelphia: The John C. Winston Co., 1907.

Essentially a revised and elaborated personal journal of the happenings incident to a seventy-day tour of the Mediterranean districts. The title itself is rather unfortunate, as the Orient and "a Mediterranean cruise" are terms not commonly applied to identical localities.

The book itself is likely to interest few, if any, outside the restricted circle of those who happened to take the same tour or are planning to take a similar one in the future. Too much space is given to the mere chatter of everyday pleasantries. In this way are buried the good points for the sake of which the average person might want to read the book. The difficulty is the same as in most other personal journals, even with the most skilful editing they prove uninteresting and tiresome to all except those intimately concerned.

The book has lost much through the inferior quality of the illustrations. The original photographs seem to have been well taken, but the lack of clearness in reproduction, amounting almost to a blotchy appearance, in some cases, detracts greatly from the effectiveness which they might otherwise have. The book is printed on enamel-finished paper, which in no way adds to its value.

**Jacobstein, M.** *The Tobacco Industry in the United States.* Pp. 208. Price, \$1.50. New York: Columbia University Press, 1907.  
Reserved for later notice.

**Kalistu, K.** *Die Hausindustrie in Königsberg in Prussia.* Pp. 57. Price, 1.40 m. Leipzig: Duncker & Humblot, 1907.

**Kelynack, T. N. (Ed.).** *The Drink Problem.* Pp. viii, 300. Price, \$2.50. New York: E. P. Dutton & Co., 1907.  
See "Book Reviews."

**Kirkpatrick, F. A.** *Lectures on British Colonization and Empire.* First series (1600-1783). Pp. xvi, 115. Price, 2 s. 6 d. London: John Murray, 1906.

This little book represents the literary first fruits of the League of the Empire. It is the initial step in the educational scheme of the League to familiarize the public with the origin, development and extent of the vast dominions included in the British Empire by means of lectures and pictorial illustrations. Each lecture is adapted for pictorial illustration and for public delivery within the space of an hour. This first series which brings the story of colonization and empire down to 1783, contains six lectures. Each lecture is to be illustrated by about forty slides, and lists of slides for each lecture are given in the preface.

It is the business of the first four lectures to trace the path of empire in the West by giving a good résumé of the founding and growth of the thirteen original colonies; of the struggle with France for the control of Canada, and of the picturesque struggle of Spaniards, Dutch, French and English for a foothold in the West Indies. The fifth lecture treats of the spread of British influence and dominion eastward into India, and the sixth

with the causes of the struggle which led to the split of the British empire in America into two by the revolt of the American colonies.

The story of empire is well told, and with the aid of the slides to illustrate, these lectures should prove of interest and instruction to an audience.

**Kropotkin, Prince.** *The Conquest of Bread.* Pp. xiv, 281. Price, \$1.00.  
New York: G. P. Putnam's Sons, 1907.

Reserved for later notice.

**Lawson, W. R.** *American Finance. Part I. Domestic.* Pp. vi, 391. Price, \$2.00. New York: Macmillan Co., 1906.

The temper of the author of this book is indicated by a sentence from his Introduction: "The United States is manifestly destined to be phenomenal in all things—in prosperity and adversity, in its booms and its blizzards, in its virtues and its defects." In true journalistic style, the author proceeds to treat his subject from the standpoint of its news value. Apparently he has taken a volume of statistics from the Treasury Department, selected all the big figures, set them down as chapter headings, and then told us with constant reiteration how big they are and how truly "American."

The book seems to want a definite purpose. The writer betrays a lack of economic training and judgment, and at the end one is in doubt as to what Mr. Lawson really thinks about our monetary system and financial methods. Its value as descriptive material is vitiated by bad arrangement and incoherence.

In his chapter on our monetary system entitled "Its Three Billion Dollar Currency" (one rather expects to see three exclamation points following), the author closes thus: "The real vice of the three billion currency is its unwieldy bulk. This strikes one at first sight, and the more we see of it the more it impresses us. The first and last criticism it provokes is amazement at the quantity of it. Its materials are all the best of their kind, and the only question is if quite as good results might not be achieved with smaller quantities of them. Currency can be economized as well as food or any other commodity. But this is the last lesson in monetary science that the Americans are ever likely to learn, much less to practice." This is an adequate summing up of a chapter in which the reader looks in vain for a discussion of the really vital points in our currency system. The absolute amount of a currency is of small importance, and even the per capita amount (in which the United States stands third in the list of nations, with less than France for example) is scarcely sufficient as a basis for final judgments. We must conclude that this book is not indispensable to the student of finance, and that it will serve to confuse rather than enlighten the ordinary lay reader.

**Leiter, F.** *Die Verteilung des Einkommens in Oesterreich.* Pp. 567. Leipzig: W. Braumüller, 1907.

**Le Rossignol, J. E.** *Orthodox Socialism.* Pp. 140. Price, \$1.00. New York: Thos. Y. Crowell & Co., 1907.

This book represents an attempt to place before the public a scientific criti-

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cism of socialistic doctrine. It is a conservative's attempt to judge socialism conservatively. The author instinctively shrinks from accepting any of the doctrines which the socialist advances. But in the latter part of the book, he virtually admits that the premises of the socialist are correct, for he accepts the idea of the need of an evolution from our present conditions, although rejecting the socialist principle of a revolution.

The book is negative in that it admits the existence of bad conditions, and then dissects and criticises the theory of regeneration without attempting to put anything in its place, except to suggest, in the closing pages, that a labor party would be of value to the laboring population. "We aim at progress, and this is had only by building. Destruction achieves nothing."

**Lewis, A.** *Rise of the American Proletarian.* Pp. 213. Price, \$1.00. Chicago: Chas. H. Kerr & Co., 1907.

In vivid and at times almost lurid colors, the author tries to show the conditions of our modern industrial world. He traces all of the ills from which we suffer to one cause, which, to his mind, is "the greater capitalism," which has developed since the time of the Civil War. A strong undercurrent of thought has run through a number of recent books and it is perhaps best expressed by the phrase, "Socialism or Empire, a danger." The author is constantly pointing to the thought that modern tendencies ought to be wholly socialistic, but, in spite of that, we are going in the direction of empire because that is the turn of affairs which the "greater capitalism" desires.

The Civil War and all of the evils of our modern system are described as though they were the result of deliberate premeditation on the part of the capitalists. In this the author goes far beyond the bounds of common sense. Although the modern trade union is attacked, and the downfall of the American Federation of Labor is predicted, and although the book is centered around the rise of capitalism and proletarianism, the author nowhere shows in a distinct manner that the American proletarian is prepared to rise, nor does he suggest any plan of concerted action or any field of action for the proletarian should he decide to rise. On the whole, the book is negative, and its chief interest lies in the interesting construction which the author places on certain historical epochs.

**Lindsay, T. M.** *A History of the Reformation.* Vols. I and II. Pp. xvi, 528, xvii, 631. Price, \$2.50 each. New York: Charles Scribner's Sons, 1907.  
Reserved for later notice.

**Marx, K.** *Capital.* Vol. II. Pp. 618. Chicago: Charles H. Kerr & Co., 1907.

**von Mayr, G.** *Allgemeines Statistisches Archiv.* Pp. 388. Tübingen: H. Laupp, 1907.

**McBain, H. L.** *De Witt Clinton and the Origin of the Spoils System in New York.* Pp. 161. Price, \$1.50. New York: Columbia University Press, 1907.

Reserved for later notice.

**Meyer, M.** *Statistik der Streiks und Aussperrungen.* Pp. 252. Price, 5.60 m. Leipzig: Duncker & Humblot, 1907.

**Mischler, E., and Wimbersky, H.** *Die Landwirtschaftlichen Dienstboten in Steiermark.* Pp. 27. Graz: Published by the authors, 1907.

**Montgomery, H., and Cambray, P. G.** (Editors). *A Dictionary of Political Phrases and Allusions.* Pp. 406. Price, \$2.00. New York: E. P. Dutton & Co., 1906.

English politics is the background from which this compilation has been made. Mention of political phrases of other countries except as they affect English foreign policy is rare. Numerous catch phrases of recent political campaigns are discussed which surely do not deserve a place in a one-volume work of this character, and even the allusions to strictly English politics are not treated with comprehension of their relative importance. Instances of this fault could be given almost *ad libitum*. A single example being the assignment of twelve lines to the subject "Customs duties" and forty-two lines to the "Cass case," an incident entirely without importance. But the worst fault of the book is the lack of judicial attitude. Almost every page is tinged with a national prejudice which warps the discussion so as to largely destroy its value. This is especially true when the authors discuss subjects relating to the United States such as the Behring Sea dispute and the Trent affair. A quotation will illustrate this characteristic. On page 357 we read that the Venezuelan award, "given in October, 1899, gave Great Britain all she claimed with the exception of two small points. Venezuela claimed 500,000 square miles and she received 200." Statements such as this clearly "against common knowledge" destroy confidence in the work as a whole.

**Moore, Frederick.** *The Balkan Trail.* Pp. 296. Price, \$3.50. New York: Macmillan Company, 1906.

A book without preface or introduction is not common in these days. Yet this characteristic of "The Balkan Trail" is, in a measure, a keynote to the tone of the whole book. The author's task is that of setting forth the conditions of, and generally the causes for, things as they exist in the Balkan district. The story throughout is as straightforward and as thoroughly to the point as could be desired. There is no pretension, the facts are told in simple style, readable and interesting from beginning to end.

The book does not aim so much to give an elaborate exposition of the political situation as it does to offer an account of the country and the people. Here and there the diction verges too closely on colloquialism, while occasionally there seems to be reason for suspecting slight exaggeration in order to make a good story. But the book as a whole gives a better idea of the life in the Balkan region than any other similar volume yet published. In securing this effect not a little is added by a large number of excellent photographs.

**Morgenroth, W.** *Die Exportpolitik der Kartelle.* Pp. 119. Price, 2.80 m. Leipzig: Duncker & Humblot, 1907.

**Munro, W. B.** *The Seigniorial System in Canada.* Pp. xiii, 296. Price, \$2.00. New York: Longmans, Green & Co., 1907.

Reserved for later notice.

*National American Woman Suffrage Association, Proceedings of the Thirty-ninth Annual Convention.* Pp. 165. Warren, O.: William Ritezel & Co., 1907.

*Nebraska, State Bureau of Statistics.* Bulletin No. 5. Pp. 128. Lincoln, Neb.: J. L. Claflin, 1907.

*New York City Visiting Committee of the State Charities Aid Association.* Pp. 146. New York: United Charities, 1906.

**Ober, F. A.** *Amerigo Vespucci.* Pp. 258. Price, \$1.00. New York: Harper & Brothers, 1907.

The sixth volume of the series, *Heroes of American History*, follows the career of Amerigo Vespucci. The author has made the most of the meager details known about this eminent geographer, and with the aid of voluminous quotations from Marco Polo, Toscanelli and Vespucci, manages to put together a very readable book. Scholars will object to his interesting but irrelevant digressions on the commercial status of Venice, the relations between Columbus and Toscanelli, the sketches of the lives of the Pinzons, de la Cosa and Ojeda, and above all, to the long imaginary conversation between Columbus and Vespucci. One takes up eagerly the chapter on The Debatable Voyage, to be pleased with the exhaustive discussion but disappointed that the author reaches no conclusion and throws no new light on the controversy.

The book is illustrated by two portraits and four maps. It is a real contribution to popular history, and the author's ardent defense of Vespucci will tend to place Amerigo in higher repute with the people of the continent named after him.

**Ober, Frederick A.** *Ferdinand Magellan.* Pp. 301. Price, \$1.00. New York: Harper & Brothers, 1907.

Yet another volume has been added to the "Heroes of American History" series, this latest one being on Ferdinand Magellan. By the use of such authoritative material as the journals of Ramusio, Francisco Albo and Pigafetta, eked out with a good deal of what is picturesque but merely probable, Mr. Ober has succeeded in putting together a very readable book for boys. Over half the volume is very properly given to the great circumnavigating voyage during which occurred the Portuguese leader's tragic death when almost attaining his grand ambition. The book is an instructive and interesting one to add to a boy's library.

**Ogden, R. (Editor).** *Life and Letters of Edwin Lawrence Godkin.* Two vols. Pp. 600. Price, \$4.00. New York: Macmillan Co., 1907.  
See "Book Reviews."

**Paine, Ralph D.** *The Greater America.* Pp. xiii, 327. Price, \$1.50. New York: The Outing Publishing Company, 1907.

The West, especially that portion of our country beyond the Mississippi, has had many prophets and interpreters. The writings of few, if any, are more vivid than those of Mr. Ralph D. Paine in his "The Greater America." So astounding are the statements and comparisons that one often cannot resist

the impulse to stop to analyze what the author has said, under the suspicion that he has caught some of the "breeziness" to which the native-born westerner is proverbially addicted. The suspicion is justified but seldom, as the facts are taken from easily verifiable sources, and surprise the reader only because the large figures presented in our usual reports have lost all meaning to us from the lack of a standard of comparison.

The author gives us not a detailed description of resources and their development, but a series of panoramic views as they impressed themselves upon his mind during an extended journey through the country he describes. We are first taken up the Great Lakes to see the tremendous ore traffic, then through the "Soo" Canal, which Henry Clay thought an absurd and useless undertaking—where now the yearly volume of traffic far exceeds that at Suez; then to the iron and copper mines, the great wheat fields, and on into the country where new railroads are being laid at the rate of two miles per day to bind the West to the East. The most important of the developments that are transforming the wilderness into habitable territory are all reviewed in turn. Descriptions of the advance in California and Alaska show the possibilities of our farthest continental possessions.

To read the book is to get a new appreciation of the greatness of America, the greatness of her present and the possibilities of her future.

**Parloa, Maria.** *Home Economics.* Pp. xii, 416. Price, \$1.50. New York: Century Company, 1906.  
Reserved for later notice.

**Phyfe, W. H. P.** *Napoleon: The Return from Saint Helena.* Pp. 97. Price, \$1.00. New York: G. P. Putnam's Sons, 1907.

It was the great Corsican's wish that his ashes should repose upon the banks of the Seine in the midst of the people he loved so well. The author tells us in a very pleasing way of the ceremonies incident to the removal of Napoleon's remains from Saint Helena to France in 1840, together with a description of his tomb in the Hotel des Invalides in Paris.

**Plumb, C. S.** *Types and Breeds of Farm Animals.* Pp. 563. Price, \$2.00. Boston: Ginn & Co., 1906.

The author justifies the publication of this somewhat extensive work on the breeds of domestic animals by pointing out that no such work has been given to the public since 1882, and that since that time marked changes and developments in this regard have come to pass. Two classes of live stock, asses and milch goats, which have never before been dealt with in a similar work, are given consideration.

The book gives the origin, importance and general utility of the various breeds of live stock, and many mooted questions of actual identity and nice differentiation are discussed. Considerable experimental data as to relative breed efficiency and merit has been secured from the race course and experiment stations. The striking records in speed and production, which have been made up to the present time, are given along with brief sketches of the winning animals. The book is fully illustrated with photographs of typical animals.

**Rauschenbusch, W.** *Christianity and the Social Crisis.* Pp. xv, 429. Price, \$1.75. New York: Macmillan Co., 1907.

**Reinsch, P. S.** *American Legislatures and Legislative Methods.* Pp. x, 337. Price, \$1.25. New York: Century Co., 1907.  
See "Book Reviews."

**Root, Elihu.** *The Citizen's Part in Government.* Pp. 122. Price, \$1.00. New York: Charles Scribner's Sons, 1907.

Reserved for later notice.

**Roquenaut, A.** *Patrons et Ouvriers.* Pp. 181. Price, 2 fr. Paris: Victor Lecoffre, 1907.

**Rosegger, H. L.** *Das parlamentarische Interpellationsrecht.* Pp. 112. Price, 2.8 m. Leipzig: Duncker & Humblot, 1907.

**Rosenhaupt, K.** *Die Nürnberg.* Pp. 219. Berlin: J. G. Cotta, 1907.

**Rouget, M. F.** *L'expansion Coloniale au Congo Français.* Pp. 942. Price, 10 fr. Paris: E. Larose, 1906.

This is a very admirable detailed study of the growth and organization of French government in the Congo. The opening chapters deal with the historical facts of French expansion in Central Africa from 1842 to the present, including an account of the intricate international negotiations leading up to the present settlement. This is followed by a description of the physical characteristics and the vegetable and animal life of the district.

The third part of the book, which is the most important, both in size and in the interest of the author, deals with the present political organization of the colony, and French policy in controlling tropical African possessions. No well-planned policy has been consistently followed out, but through all changes that have taken place the French have "judiciously refused to this unfortunate colony the right to think for itself." The present organization is based frankly upon the belief that good administration is the chief end to be sought, and that the abstract political rights of the inhabitants are a matter of comparative unconcern. Consequently a native legislature does not enter into the scheme of government. The colony is not represented in the French legislature except by a delegate without a vote, who represents its interests in the upper house. The immense extent of territory to be controlled and the scant economic resources of the country demand that the governmental authority should be concentrated in the hands of as few men as possible, so there shall be no conflict of authority, and that the expense of government may be kept at a minimum.

A commissary general, with wide powers of initiative and control, is entrusted with the internal administration. To advise him there is a council of five officers of the smaller governmental districts and representatives of the concessionary companies who hold charters for the exploitation of the colony's resources. This body meets at least once a year. For matters of secondary importance there is a smaller council chosen from the membership of this same body.

The governmental divisions under the commissary general comprise several "regions" divided into "circles," which are again divided into "sections." In these latter local units the native sultans are made use of as the easiest means to control the people and to make them feel the connection between their own people and the central government. The resources of the government are obtained through a system of direct taxation, the payment being made in rubber, ivory, woods and other native products. Imports in some cases, even when of French origin, are also taxed. The legal system is personal rather than territorial. Natives are judged by native law, and Frenchmen by the French. In cases involving both classes the court of the defendant prevails. The natives may choose to be tried under French law if they wish.

The study as a whole is admirable in its detail and clearness of exposition. It is written from the point of view of the administration, and at points lacks independence in criticism, though suggestions for improvement are freely made in many chapters. The numerous illustrations are unfortunately not executed with a skill proportionate to the merits of the work.

**Schmidt, B.** *Über die völkerrechtliche clausula rebus sic stantibus.* Pp. 226. Price, 5.60 m. Leipzig: Duncker & Humblot, 1907.

**Schmidt, P.** *Bibliographie der Arbeiterfrage für das Jahr 1906.* Pp. 84. Berlin: L. Simon, 1907.

**Schmoller, G.** *Jahrbuch für Gesetzgebung, Verwaltung und Volkswirtschaft.* Pp. 480. Price, 11 m. Leipzig: Duncker & Humblot, 1907.

**Smith, J. A.** *The Spirit of American Government.* Pp. xv, 409. Price, \$1.25. New York: Macmillan Co., 1907.  
See "Book Reviews."

**Smith, P.** *Luther's Table Talk.* Pp. 135. Price, \$1.00. New York: Columbia University Press, 1907.

**Starr, Frederick.** *The Truth about the Congo.* Pp. 129. Price, \$1.00. Chicago: Forbes & Co., 1907.

Professor Starr wrote the series of articles published in this book to tell just what he saw of the people of the Congo and the government under which they live. So much highly colored literature has recently been given to the public picturing the barbarity of the concessionaires that it is a relief to read this account by an impartial observer who believes that after all hysteria has inspired most of the condemnation of the Belgian government and its agents. The motive lying back of much of the writings also, is partly political—the desire of England to complete her Cape to Cairo holdings. Professor Starr says: "Of frightful outrages such as I had expected to meet everywhere, I may almost say there was nothing." "On the whole—things in Congoland are not so bad." "Nowhere did the people seem to show fear, hostility or the effects of bad treatment." Interesting sketches are given of social and economic conditions.

**Steiner, Bernard C.** *Maryland during the English Civil Wars. Part I.*

Pp. 81. Price, 50 cents. Baltimore: Johns Hopkins Press, 1906.

This study is a continuation of a previous one by the same author, published in 1903 under the title, "Beginnings of Maryland," and carries forward the history of the province from 1659, the date at which the former work concluded. Since this narrative covers only the years 1639-1642 it is hoped Dr. Steiner will fulfil his design of producing a third monograph completing the history to the end of the period of the English Civil Wars. Among the subjects of especial interest covered by the present study are the early troubles with the Indians and the labors of the Jesuits among them, several important meetings of the General Assembly [from the fourth to the seventh], the new commission sent to Governor Leonard Calvert in 1642, and Baltimore's struggle, with the Jesuits. From this last episode, the author points out three interesting survivals in the laws of Maryland to-day: Ecclesiastics may not sit in the General Assembly; the transfer of land or goods, either as a gift, sale or devise, to take effect after the death of the donor or seller, is ineffective unless ratified by the General Assembly; and Maryland is the only state of the Union to require a religious ceremony for the completion of a marriage.

Mr. Steiner's work is based mainly upon the Maryland archives, the publication of which has been in progress for a number of recent years. It is well written and adds much to our knowledge of the early internal history of Maryland.

**Steiner, B. C.** *Maryland During the English Civil Wars. Part II.* Pp. 118.

Baltimore: Johns Hopkins Press, 1907.

**Tenney, A. A.** *Social Democracy and Population.* Pp. 89. Price, 75 cents.

New York: Columbia University Press, 1907.

**Terlinden, C.** *Guillaume Der et L'Eglise Catholique.* Two vols. Pp. xxi, 987. Brussels: A. Dewit, 1906.

Reserved for later notice.

**Tower, Walter S.** *A History of the American Whale Fishery.* Pp. x, 145.

Price, \$1.50. Philadelphia: University of Pennsylvania, 1907.

Dr. Tower is to be congratulated upon having produced an exceedingly valuable work. To compress within a volume, one hundred and fifty pages in length, the comprehensive account of an economic institution whose history extends back to the sixteenth century and to make that account an interesting narrative is indeed a literary triumph. Historians will find the work indispensable to a complete knowledge of American History. Economists will prize the full data in the book regarding the trade in whaling products and the relations of that trade to the economic development of our country.

The elaborate tables contained in the appendix give comprehensive information regarding the shipping engaged in whaling from every port of the United States, and also present full information concerning the products of the whale fisheries and the trade in those products. Every library will

desire to own this book, and economists and historians will wish to have the volume upon the shelves of their private collections.

**Washington, B. T. *Frederick Douglass*.** Pp. 365. Philadelphia: G. W. Jacobs & Co., 1907.

See "Book Reviews."

**Williamson, C. C. *The Finances of Cleveland*.** Pp. 266. Price, \$2.00. New York: Columbia University Press, 1907.

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**Abbot, Henry L. *Problems of the Panama Canal*.** Pp. xii, 260. Price, \$1.50. New York: Macmillan Co., 1907.

The merit of General Abbot's book on the Panama Canal is attested by the fact that a second edition has been necessary within two years after the first edition appeared. As the first edition did not receive notice in *THE ANNALS* an estimate of the book seems desirable at the present time. The first sixty pages of the volume give a history of the project from the beginning of the French enterprise at Panama up to the adoption of the Panama location by the United States Government. Although this account by General Abbot is brief it is a clear statement of the more important facts. Those desiring a fuller history of the subject will consult the "Report of the Isthmian Canal Commission for 1899-1901," which contains an admirable "History of Inter-oceanic Projects and Communications," that was prepared by Hon. Samuel Pasco, a member of the commission.

General Abbot's description of the physical conditions on the isthmus, his discussion of the Chagres River problem, and of the difficulties of disposing of the floods in the upper and lower Chagres Valley, constitute a most valuable treatise of those difficult engineering and hydrographic questions. He has the good fortune of being able to present technical problems in non-technical language. The last chapter of the book gives a description and critical estimate of the projects for the canal that were developed by the New Panama Canal Company, by the Isthmian Canal Commission of 1899-1901, and of the project that was recommended by the board of consulting engineers in 1906. The modifications of the design of the canal and in the details of the project that have been made since the beginning of 1906 are also pointed out.

Like nearly all of the distinguished American engineers who have studied the Panama Canal project, General Abbot favors the construction of a canal with locks. His views on this important and much debated question are stated as follows in the closing paragraph of his book: "In fine, well-established facts demonstrate that the conception of a sea-level construction is incompatible with the actual topographical and hydraulic conditions existing upon the isthmus. Forced upon the first French company by the commanding influence of M. de Lesseps, a diplomatist and not an engineer, it entailed financial ruin upon his associates. Revived, largely through the efforts of

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Mr. Wallace, it has caused the loss of precious time since the work passed under the control of the United States. With abundant financial resources and unlimited time for construction, it may be considered 'feasible' from an engineering point of view to construct a sea-level canal, but when completed it must always remain inferior as a transit route, to the lake-type adopted."

Students of the canal project in its historical, political, economic and technical aspects will find General Abbot's work one that it would be well to read in connection with the more comprehensive and complete discussion contained in the "Report of the Isthmian Canal Commission for 1899-1901" and in the "Report of the Board of Consulting Engineers for the Panama Canal, 1906." These two official reports are accompanied with numerous maps and charts which greatly enhance their value.

EMORY R. JOHNSON.

*University of Pennsylvania.*

**Alexander, E. P. *Military Memoirs of a Confederate: A Critical Narrative.***

Pp. xviii, 634. Price, \$4.00. New York: Charles Scribner's Sons, 1907. To a layman this book appeals as little short of epoch making in the history of military criticism. It gives detailed accounts of the battles and movements of the Army of Northern Virginia and of the battle of Chickamauga, in which the author, a brigadier-general in the Confederate army and chief of artillery, took part. He lays down the chessboard, places his men, and points out the moves that were made and should have been made with such consummate skill that one is strongly tempted to follow him in every detail. This, too, in a game of war when the movement for peace is so strong.

One of the most striking features of the book is its entire freedom from animus or partisan bias. It is very pleasing indeed to find an old soldier who, if he ever carried in his heart any of the bitterness of defeat, has lost it all and can now review the struggle as he might review the battle of Waterloo or the siege and storming of Port Arthur. If criticisms are meted out to all—and scarcely a man on either side escapes—it is not because of a desire to be impartial in their distribution, but because the author can see mistakes and has the courage to point them out.

The same man is not always at fault. If Stonewall Jackson is under a "spell" in the seven days' fighting, that does not dim the luster of his valley campaign and the masterful strategy of the second Manassas. If McClellan was a poor fighter, he was a splendid organizer. Perhaps Pope's general incapacity is hardly to be offset by the fact that he was a past master at boasting. The faults, as well as the virtues, of Longstreet are freely pointed out. He hardly suffers as much at the author's hands in the Gettysburg campaign as he has at the hands of others. On the whole, the author concludes that the loss of the battle, if any other result was ever possible, was mainly the fault of Lee, not because Lee took the blame on himself, but because a study of the battle has revealed his errors, mistakes which "he himself would have [pointed out] had he lived to write

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his own memoirs. No more intimate idea can be gained of his personal character than can be had from a study of his attitude upon such occasions. . . . Surely there never lived a man who could more truly say:

'I am the master of my fate,  
I am the captain of my soul.'

DAVID Y. THOMAS.

*University of Arkansas.*

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**von Bernhardi, F. W.** *Cavalry in Future Wars.* Pp. xxviii, 305. Price, \$3.00. New York: E. P. Dutton & Co., 1906.

The commander of the Seventh Division of the German Army has given us a timely contribution to army literature. The work is prepared with especial reference to the conditions in the German forces.

It is almost needless to say, however, that the use to be made of cavalry, or any other arm of the service, is so affected by surrounding conditions that rules cannot be laid down that will be equally applicable to one place as to another. The book must, therefore, be read with discrimination and judgment. The cavalry of the future will always have a most important part to play in war, and while "shock tactics," or the use of cold steel in battle, may under some conditions, be justifiable, it will be so only against other cavalry or the most disordered infantry. The range, accuracy and volume of fire of the modern rifle has given to good infantry a confidence and steadiness that cavalry cannot disregard. The important functions of cavalry in keeping the commanding general advised of the strength and movements of the enemy are more important now than ever. When the commanding general has reliable information on these points his task is comparatively easy.

This is the age of specialists, and it is scarcely to be expected that the ordinary man, who forms the bulk of an army, can be made proficient in the use of the saber or lance, and also become a good marksman with a rifle. It takes time to make a good infantry soldier, it takes longer to make a good cavalryman. The importance of a cavalry leader is dwelt on at considerable length, but cavalry leaders are not made to order. Great cavalry leaders, like great generals, are born, not manufactured. That army is lucky that possesses one.

The need of a well-organized, well-equipped and well-drilled cavalry, particularly in the first days of a war, is recognized as of the utmost importance, and the lack of it is nowhere more keenly felt than in Europe. But it is necessary to use the branch carefully and not expect too much from it, for its losses cannot be readily replaced. The author of the work is an experienced cavalryman, and eminent in his profession. His views are entitled to more than ordinary consideration, even though in all his conclusions we may not concur. Perhaps there is no other German soldier so well equipped for handling this subject.

PETER C. HAINS.

*Washington, D. C.*

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**Bisland, Elizabeth.** *The Life and Letters of Lafcadio Hearn.* Two vols. Pp. viii, 1035. Price, \$6.00. Boston: Houghton, Mifflin & Co., 1906.

Though Lafcadio Hearn is primarily a literary artist and poet, his rare insight into race psychology, especially into the mysterious realm of the sub-conscious and inherited elements, has made his works of great value to students of ethnic development. To such, his letters will be especially welcome, for in them, aside from their literary charm, they will frequently encounter in a more direct manner the personal views of the author upon the people among whom he lived at the various times of his life. For a time, Hearn interested himself in the negro race, and his little volume, "Two Years in the West Indies," is the most intimate study we have of the rich, though primitive, psychology of the peoples of Africa, influenced by a new geographical and ethnical environment. But Hearn had not found his life work, before his own inclination and the advice of friends had taken him to Japan. He is *par excellence* the interpreter of the ideals of the older Japanese civilization. Being himself essentially a poet, the simple though elusive poetry of original Japanese life deeply impressed him; being by nature inclined to dwell upon the mysterious and startling facts in human psychology, he revelled in the folklore and the current beliefs of a society which has made the spirit of the dead within us, the motives and impulses of the past, the leading element in its view of life.

To him it appeared that there was an amazing difference in the psychology of the Japanese and the Western races, a difference which made sympathy and friendship almost impossible. This attitude of Hearn's has evoked much criticism in the Japanese press, and it was there charged that it is simply Hearn's insufficient knowledge of Japanese as well as his very retiring nature which made the Japanese so mysterious to him. Yet it must certainly be admitted that the results of his main work do reveal very striking differences of racial psychology. It is strange that one who has discovered so much of poetry and interest in the Japanese mind should in a way be repelled by it. In a letter in 1895, he says: "You can't imagine my feeling of reaction in the matter of Japanese psychology. It seems as if everything had quite suddenly become clear to me, and utterly void of emotional interest; a race primitive as the Etruscan before Rome was, or more so, adopting the practices of a larger civilization under compulsion,—five thousand years at least emotionally behind us,—yet able to suggest to us the existence of feelings and ideals which do not exist, but are simulated by something infinitely simple." He says: "The sympathetic touch is always absent. I feel unhappy at being in the company of a cultivated Japanese for more than an hour at a time. After the first charm of formality is over, the man becomes ice—or else suddenly drifts away from you into his own world." Modern Japanese education, of which Hearn saw a great deal, filled his mind with doubts. The university, being a gate to public office, affording a start in life, has, in his view, little inner power. The high schools seem to him to be "ruining Japanese manners, and therefore morals." "Men cease to be lovable, and often become unbearable," which makes Hearn long for a great reaction. Intrigue, which, in the Orient, has been cultivated as an art for ages, as no doubt it has been

in other countries, fills the life of the Japanese capital. "The result of the

adoption of constitutional government by a race accustomed to autocracy and caste, enabled intrigue to spread like a ferment, in new forms, through every condition of society." "Tokio takes out of me all power to hope for a great Japanese future." One of the main characteristics of the Japanese is "a tendency to silence and secrecy in regard to the highest emotions." In another letter he says: "That the Japanese can ever reach our aesthetic stage seems to me utterly impossible, but assuredly what they lack in certain directions, they may prove splendidly capable of making up in others. Indeed, the development of the mathematical faculty in the race—unchecked and unmodified by our class of aesthetics and idealisms—ought to prove a serious danger to western civilization at last. Japan ought to produce Napoleons of practical applications of science." Hearn considers the difference in sexual feeling the basis of the fundamental divergence between Japanese and western aesthetics.

Of current contemporaneous events we find comparatively little mention in these letters. The Chino-Japanese War Hearn looks upon as the last huge effort of the race for national independence. "Under the steady torturing pressure of our industrial civilization, Japan has determined to show her military power to the world by attacking her old teacher, China." In another letter he says: "But let no man believe Japan hates China. China is her teacher and her Palestine. I anticipate a reaction against Occidental influence after this war, of a very serious kind. Japan has always hated the West—western ideas, western religion. She has always loved China." Hearn regarded the check placed upon Japan by the three powers in 1895 as being rather in the interest of foreign residents, and as also likely to benefit Japan in the end. "She will be obliged to double or triple her naval strength and wait a generation. In the meantime she will gain much of other power, military and industrial. Then she will be able to tackle Russia." Hearn agrees with the view expressed in Pearson's "National Character." Orientals can so much *underline* Europeans, the physical cost of existence is so much less to them, that probably "the future is not to the white races."

Hearn's mind in viewing his surroundings was ill at ease because he saw "the destruction of a wonderful and very beautiful civilization by industrial pressure." With Spencer, he fears the "coming slavery." He says: "The charm of Japanese life is largely the charm of childhood, and the most beautiful of all race childhoods is passing into an adolescence which threatens to prove repulsive. Perhaps the manhood may redeem all,—as with English 'bad boys' it often does." He especially disliked the official world with its narrow administrative criteria, its airs, conceits, and imitation of foreign ways. Yet he is often consoled by some new glimpse of the poetry of the older Japanese life. "I felt as never before how utterly dead old Japan is, and how ugly new Japan is becoming. I thought how useless to write about things which have ceased to exist. Only on reaching a little shrine, filled with popular *ex-voto*, it seemed to me something of the old heart was still beating,—but far away from me and out of reach." In another letter we read: "I felt as if I hated Japan unspeakably and the whole world seemed not worth living in, when there came two women to the house to sell ballads. One took her *samisen* and sang, and people crowded into the tiny yard to

hear it. Never did I listen to anything sweeter. All the sorrow and beauty, all the pain and the sweetness of life thrilled and quivered in that voice; and the old first love of Japan and of things Japanese came back, and a great tenderness seemed to fill the place like a haunting." Often still does he encounter the refinement of the old spirit so delicate and frail that a brutal civilization is crushing it out. For Hearn Japan had moved too fast. In her effort to make herself strong to protect her national life and independence, she had been forced to harden herself and to turn her back upon the sweetness and refinement of her old life. The tragedy which Hearn saw was that the spirit of life for which apparently all these sacrifices were made was itself crushed under the machinery created to defend it. The westernizing had been too successful, Hearn wanted an Oriental Japan.

PAUL S. REINSCH.

*University of Wisconsin.*

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**Gorst, J. E.** *The Children of the Nation.* Pp. x, 297. Price, \$2.50. New York: E. P. Dutton & Company, 1907.

The growing amount of attention given to the physical welfare of school children in America is partly due to the inductive processes of American observers, such as the heads of city schools, health departments, and relief agencies, but chiefly to the flood of literature on this subject that has come to us from Germany, France, and Great Britain.

The book under review is serviceable because of its analysis of the conditions involved in child health rather than for the remedies proposed for physical defects, such as free meals, free eye-glasses, free everything hitherto associated with parental responsibility.

Each chapter is full of practical suggestions for teacher, parent and citizen in American school districts, rural as well as urban. For example, the discussion of school hygiene begins with a proposition that should be self-evident,—"If you take the children out of the pure air of the country, or even the less healthy air of the streets and parks of towns, you must take care not to put them into air unfit to breathe in your school." It seems that in England, as in America, that the main fault is not so much in the defective construction of buildings as that "teachers, managers and inspectors refuse to make proper use of the ventilation provided."

In speaking of provision for water, lighting, desks and playgrounds the author shows how common it is for schools actually to manufacture physical defects.

It is worth while for those impressed with the author's argument for free lunches, free eye-glasses and general state interference, to reflect that the fact basis of his reasoning is very slight,—as he himself admits. The European cities have discovered an alarming amount of what is called physical deterioration, but which might be proved to be a relative improvement,—though an absolute defect. Seeing clearly a need, they have hastened to remedy the symptoms. It is due to the Scotch sanitarians such as Dr. Chalmers, of Glasgow, and the medical officers of Edinburgh and Dundee.

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Fortunately, conditions are not so aggravated in America as in the British cities (where, by the way, the distressing situation cannot be attributed to immigrants), and, as the author suggests, the thorough physical examination of school children begun at once and followed up consistently may obviate the necessity for the state socialism that Alfred Moseley deplores and condones in the case of Great Britain.

It is worth while to call attention to the workmanship on the book. The chapters have sub-headings significant and interesting. For instance, Children's Ailments (Chapter VII), their running page headings and frequent use of italics in topical divisions, of indentation, numbering paragraphs, index, and other devices all serve to bring out the author's message.

WILLIAM H. ALLEN.

*New York.*

**Hamilton, Angus.** *Afghanistan.* Pp. xxi, 562. Price, \$5.00. New York: Charles Scribner's Sons, Importers. London: William Heinemann, 1906.

The lack of a comprehensive study of Afghanistan and its conditions has been at length supplied by Angus Hamilton in his large volume recently issued, and imported by Charles Scribner's Sons. The work required two years to be spent in its preparation and the result is most satisfactory, as the book contains much information under historical, geographical, ethnographical, commercial and political groupings. The climate, country and towns are well described, the railroad approach is accurately and minutely dwelt upon, as are also the products and minerals, exports and imports. The author, by special permission, dedicates the volume to Lord Curzon, of Kedleston, "who, by the splendour of his gifts and the wisdom of his rule has left an indelible and memorable impression upon India."

The relations of Russia to Great Britain and Afghanistan, and all border-land encroachments, are plainly set forth. The situation of Afghanistan as a buffer state, an entrance to India, will probably lead, the author believes, to encounters in the future as it has in the past. Meanwhile, despite existing treaties, the author regards His Highness Habib Ullah, Amir of Afghanistan, as an uncertain quantity in the problem of Anglo-Afghan affairs.

The illustrations are numerous and interesting, a picture of Lord Curzon being the frontispiece. A map on a generous scale serves to elucidate the text.

*Philadelphia.*

LAURA BELL.

**Hamilton, C. H.** *A Treatise on the Law of Taxation by Special Assessments.* Pp. lxxv, 937. Price, \$7.50. Chicago: George I. Jones, 1907.

With the exception of the work of Mr. Welty, in 1886, in which he devoted two chapters to street improvements and assessments, and cited only one hundred and seventy cases, this is a pioneer work upon the subject of special assessments. The necessity for a work of this kind is found in the fact that street improvements have become a necessity, and experience shows that the

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only way to successfully prosecute such work is to require abutting property owners to pay for the special benefit received.

The merit of a text book is:

1. Its thorough, concise and lucid exposition of the decisions of the courts of various states and the deductions of the legal principles underlying such decisions.

2. An index which enables one to find what he wants.

Mr. Hamilton has met these conditions and is to be congratulated especially upon the fact that he has furnished an index which enables one to know where to find the law bearing upon his subject. An examination of the cases shows that while an assessment is a tax in that it is an enforced contribution from the property owner for the public benefit, yet it is not a tax in the sense that it is a burden, since the property owner receives an equivalent in the shape of the increased value of his property. The overwhelming weight of authority is, therefore, to the effect that the word "tax" as used in our constitutions does not relate to special assessments, but that the legislature, in the exercise of its sovereign authority, has the right to authorize these special assessments for street improvements unless prohibited by the organic law.

So then, unless the legislature is prohibited from authorizing street improvements and requiring the abutting property owners to bear a portion of the expense upon the theory of special benefits, it has the right so to do.

An examination of the cases cited by the author and the principles deduced therefrom clearly shows that the right to assess abutting property owners for the special benefits which they receive by reason of permanent improvements in front of their property is thoroughly intrenched in American jurisprudence, and as to urban property, the "front foot" method is the best practical method by which these benefits may be ascertained. The state that adopts any other policy will find itself far behind in the march of municipal progress.

This book of Mr. Hamilton's is a meritorious one and deserves the careful attention of students of this branch of constitutional and municipal law.

JOSEPH A. McCULLOUGH.

Greenville, S. C.

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**Kelynack, T. N. (Ed.).** *The Drink Problem in Its Medico-Sociological Aspects.* Pp. viii, 300. Price, \$2.50. New York: E. P. Dutton & Co., 1907.

The above work is a contribution of the greatest value to the scientific study of the liquor problem. On account of the complexity of the effects of alcoholism in modern society, the plan of the work has been to have a specially qualified medical expert treat of each phase of the problem. The result is a book, which, while not homogeneous in character, has a unique value in that the opinions presented under each topic are those of a scientific expert.

The chapters range from "The Pathology of Alcoholism" to "Alcoholism and Legislation." The general trend of the conclusions reached by the

several experts is all that any advocate of temperance could desire. The position of Professor Sims Woodhead, who writes the chapter on "The Pathology of Alcoholism," that alcohol is a protoplasmic poison, is in general maintained throughout the book. The question whether alcohol can ever be considered a food or not is not directly discussed, but the implication is that it cannot. In several places it is definitely stated that alcohol is not a stimulant, but always a narcotic; its use even as a medicine, therefore, is very limited, and is justifiable only "as a temporary expedient to overcome a crisis."

Concerning these and other medical points in the work the reviewer did not feel competent to judge. Accordingly he submitted the book to a medical friend, who keeps abreast of the latest developments in the medical sciences. The judgment of this man, who is in no way identified with the temperance movement, was: "The book is all right. It is scientific and up-to-date. It would be a good thing if every man could read it. Up to a few years ago I also taught that alcohol was useful as a medicine in the case of certain diseases, but recent experiments, tests with blood-pressure instruments and the like, seem to disprove this."

Upon the purely social aspects of the liquor problem the book is not as complete as one could desire. In general, the statistics cited are not as full and complete as they should be. This is especially true of the chapter on "The Criminology of Alcoholism." Foreign statistics are rarely referred to; for example, the extensive and valuable work of the "American Committee of Fifty to Investigate the Liquor Problem" is scarcely mentioned. Also one or two absurd statistical errors have crept into the text. For example, on page 4 this statement occurs: "At present we [Great Britain and Ireland] use about fourteen gallons of absolute alcohol a year, per individual." On page 131, however, we are told that the amount of absolute alcohol consumed annually per inhabitant in the United Kingdom is only 8.17 liters. Such errors may cast unjust suspicion in the minds of some upon an otherwise extremely careful and conservative piece of scientific work.

On the whole, then, the work will be found exceedingly valuable for the scientific student of the liquor problem, and will furnish a mass of useful and reliable facts for the practical temperance reformer.

CHARLES A. ELLWOOD.

*University of Missouri.*

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**Ogden, R. (Editor).** *Life and Letters of Edwin Lawrence Godkin.* Two vols. Pp. 600. Price, \$4.00. New York: Macmillan Co., 1907.

It has rarely been our pleasure to read a work at once so interesting and valuable as this. Two volumes on the life of the famous editor of *The Nation* and *The Evening Post* (N. Y.). Mr. Ogden has performed his work with notable success. He has told, in a really charming way, the life of Godkin through his letters. And these letters cover such a wide range of life, thought and experience, and in such an interesting and vigorous manner, that

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it was only necessary to collect and edit them to present to the world a remarkable picture of a most remarkable man.

Mr. Godkin was born in Ireland, in 1831, and died in 1902. For more than forty years of his varied, full and rich life he lived as a citizen of the United States. Educated at Queen's College, Belfast, trained in the law in London, at the age of twenty-one he began his real life work—Journalism.

In 1856 he came to New York, and from this time until his death he was a vital part of our life. He entered upon the practice of law in 1858, but soon gave his entire attention to journalism—to good government and high standard of thought and literature. Very soon after landing in New York he made a trip through a number of the southern states, for the London *Daily News* and other business reasons. His letters to this paper, written during December, 1856-April, 1857, are very remarkable for their profound insight into the manners, customs, and thought of the southern people. His portrayal of their peculiar thought and feelings, and especially of their one great institution—slavery—is indeed notable for its clearness, vigor and moral tone.

After his return to New York in the spring of 1857, Mr. Godkin continued to write for the *Daily News*. Through this source he was a powerful spokesman to Europe for the North during the Civil War. But his greatest work was yet to be. The founding of that weekly journal of "politics, literature, science and art"—*The Nation*—in 1865. To create and for many years to give life and power to such a high-class journal was a very remarkable work. From its birth until its sale to *The Evening Post* (N. Y.), in 1881, Godkin was truly *The Nation*. His connection with *The Evening Post*, *The Nation* now becoming its weekly edition, as associate editor, 1881-83, as editor-in-chief, 1883-99, gave to the world a wonderfully great service. During all these years the *Post* was the champion of all good causes in government, morals, literature, and was the inveterate enemy of all bad men and measures.

And during all these years Mr. Godkin wrote a number of magazine articles and books. His *Problems of Modern Democracy* and his *Unforeseen Tendencies of Democracy* are books of a high rank.

Through all his writings we find clearness and vigor of style and accuracy of judgment. We know of no saner judgment of Lincoln than that given by Godkin just after the assassination of our great war President. Godkin wrote, in 1865: "The loss of Mr. Lincoln at this juncture would, under any circumstances, have been a terrible blow to the North. It is doubly terrible now, when the soldier has about finished his work, and that of the pacificator has to begin. The United States might be searched in vain for a man who could bring such qualifications to the task as Mr. Lincoln—so much firmness, so much caution, so much gentleness, such profound sympathy with liberty, such hearty respect for labor, and such rare and almost infallible comprehension of the character, aims and need of his countrymen." How wonderfully accurate was this estimate forty years have confirmed!

CHARLES LEE RAPER.

*University of North Carolina.*

**Paullin, C. O.** *The Navy of the American Revolution: Its Administration, its Policy and its Achievements.* Pp. 549. Cleveland: Burrows Brothers' Co., 1906.

The political scientist as well as the historian will doubtless welcome the appearance of Mr. Paullin's book. The history of the navy of the American Revolution "written from the point of view of the naval administrators," throws valuable light upon the framework of the revolutionary governments, and treats admirably a much-neglected aspect of the revolutionary struggle. To reconstruct the naval administrative machinery created by the Continental Congress, to review the naval legislation of that body, and to write for the first time the history of the state navies—these are the main objects which the author has had in view. Prolifexy has been avoided by the selection of typical instances and a careful summarization of results.

The history of the Continental navy, which occupies more than one-half of the book covers about a decade commencing with the organization of the naval committee in October of 1775. As a congressional committee it was responsible for the adoption of rules of discipline, the making of appropriations, the establishment of admiralty courts. As an administrative body it purchased and fitted out ships and had control over all "Continental" vessels except Washington's Boston and New York fleets and Arnold's fleet on Lake Champlain. Though fairly successful it was absorbed early in 1776 by the marine committee which consisted of one delegate from each state.

The powers and duties of the marine committee corresponded closely with those of its predecessor. It had to contend with extraordinary difficulties, more especially in the scarcity of seamen and the lack of discipline, tradition and *esprit de corps*. The committee proved "slow, cumbrous, inexpert and irresponsible," and after about three years gave place to a board of admiralty, which proved "slower, more cumbersome and less responsible" than even the marine committee. When at last the "concentrative" school had its way, and in September, 1781, Robert Morris, as agent of the marine, was placed in full control. Whatever the shortcomings of the navy during his term of office they "did not spring from the lack of an efficient executive."

The account of the continental navy concludes with two chapters on "The Naval Duties of American Representatives in Foreign Countries."

In the history of the state navies, we come to what is certainly the most original and for that reason perhaps the most valuable portion of the book. All the states with the exception of New Jersey and Delaware owned and operated armed vessels. They greatly exceeded in number the vessels of the continental navy. Massachusetts, Connecticut, Pennsylvania, Maryland, Virginia, and South Carolina all possessed respectable fleets, and each of these here receives separate treatment, the vessels of the other states being grouped for consideration as the minor navies of the North and South. The naval administrative machinery of the states presents in many cases great similarity to that of the Continental Congress. Mention must not be omitted of the useful lists of naval officers and armed vessels and the extensive critical bibliography which are appended to the book.

In closing let it be said that this book is in all respects admirable, and

that the author may be congratulated upon the possession of the painstaking industry and ripeness of judgment which disarm the most captious of critics.

HERBERT C. BELL.

*University of Pennsylvania.*

**Reinsch, P. S.** *American Legislatures and Legislative Methods.* Pp. x, 337.

Price, \$1.25. New York: The Century Co., 1907.

This book is a middle term between a monographic study and a popular discussion, and profits by the advantages of the two extremes. The author writes from the background of a thorough technical knowledge, but weaves into the presentation a wealth of incident and illustration that make the book readable without destroying its critical character.

The field covered includes both national and state legislatures, but the discussion of the first division adds comparatively little to the knowledge of the student of American legislative action. The discussion of the state legislatures, however, is a distinct contribution to a much-neglected subject. The book is a searching analysis of the methods of organization and action of legislative bodies, not as they exist on paper, but as they exist in fact, an attempt to look behind the formal reports of proceedings to analyse the shortcomings of our legislative bodies and to see the causes underlying these deficiencies. This effort is a distinct success. Lack of space prevents a detailed review of the various subjects presented.

The scope of the volume may be appreciated by an enumeration of the chief chapter headings which are, Legislative Committees, Procedure in State Legislatures, Legislative Apportionments and Elections, The Perversion of Legislative Action, Public Forces Influencing Legislative Action, and The Legislative Product.

The review of the actual working of the American legislature is not encouraging, though it does not present a hopeless prospect. There is but little theorizing in the volume except when deductions and suggestions are drawn immediately from the experiences of the various states as presented. Professor Reinsch has preferred to adopt the academic standard of allowing the facts themselves to convince the reader rather than resort to detailed argument. After studying the shortcomings and difficulties of the legislator from various points of view the reader clearly realizes how great has been the disappointment of those who looked for the millennium through popular government. Yet the facts marshaled by the author do not lead to the belief that the failure is complete, but rather that too much has been expected of legislative bodies. An aroused public opinion, greater care in selection of candidates, greater use of expert guidance, both in organization of the membership and in the drafting of bills, and perhaps an adoption to some degree of the principle of representation of interests rather than of numbers, may yet redeem "government by discussion" and restore the legislature to public confidence. As a whole the book is the best presentation of this subject in limited space which has yet appeared.

LUTHER F. WITMER.

*Philadelphia.*

*Recent Works on Transportation.*

**Ripley, W. Z. (Ed.).** *Railway Problems.* Pp. xxii, 686. Price, \$2.25. Boston: Ginn & Co., 1907.

**Parsons, Frank.** *The Railways, the Trusts and the People.* Pp. v, 544. Price, \$1.50. Philadelphia: C. F. Taylor, 1906.

**Parsons, Frank.** *The Heart of the Railroad Problem.* Pp. viii, 364. Price, \$1.50. Boston: Little, Brown & Co., 1906.

**Meyer, B. H.** *A History of the Northern Securities Case.* Pp. 132. Price, 60 cents. Madison: University of Wisconsin, 1906.

**Webb, Walter Loring.** *The Economics of Railroad Construction.* Pp. viii, 339. Price, \$2.50. New York: John Wiley & Sons, 1906.

**McClelland, C. P., and Huntington, C. C.** *History of the Ohio Canals: Their Construction, Cost, Use and Partial Abandonment.* Pp. viii, 181. Columbus: Ohio State Archaeological and Historical Society.

A collection of papers dealing with the various phases of the relation of the railways to the public was needed, and Professor Ripley has performed a valuable service in bringing out the volume on *Railway Problems*. The compilation of this set of papers was made for two purposes: "To render more easily accessible to the interested public valuable technical material upon the question of paramount interest and importance at the present time," and "also to facilitate the work of the college instructor in the economics of transportation." Professor Ripley does not intend the volume "to be used alone in the conduct of courses, but in connection with some standard treatise upon the economics of transportation."

The compendium comprises twenty-seven chapters, more than half of them consisting of slightly condensed reprints of the decisions of the Interstate Commerce Commission regarding relative and reasonable rates, the long and short haul clause, the southern and transcontinental rate systems and freight classifications. The first chapter following the introduction contains a valuable selection from Charles Francis Adams's book, "A Chapter of Erie." Among the other papers by individual investigators is one on "Standard Oil Rebates," by Miss Ida M. Tarbell, the "Building and Cost of the Union Pacific," by Henry K. White, the "Southern Railway and Steamship Association," by Henry Hudson, the "Theory of Railway Rates," by Professor F. W. Taussig, the "Northern Securities Company," by Professor B. H. Meyer, the "Interstate Commerce Act, as Amended in 1906," by Professor Frank H. Dixon, the "Doctrine of Judicial Review," by Dr. Harrison S. Smalley, and the "English Railway and Canal Commission of 1888," by Professor S. J. McLean. Professor Ripley has wisely included two of his own recent studies: "The Trunk Line Rate System" and "Economic Waste in Transportation."

Professor Ripley introduces the volume with an excellent analysis of the railway problem. He discusses briefly rebates, discrimination, pooling of traffic, the problems of reasonable rates, government regulation and European

experience. The significance of each of the chapters included in the compendium is made very clear by this admirable introduction to the volume.

"Railway Problems" is by far the best compendium of papers on railway transportation that has yet been made. Senior and graduate students in American universities, railway officials, and public officers, entrusted with the regulation of railroads, will all feel indebted to Professor Ripley for editing and publishing this volume.

The scope of Professor Parsons' volume, *The Railways, the Trusts and the People*, is concisely and accurately stated in the author's preface: "The book is in two parts. The first consists of twenty chapters full of vital facts from the railway history of the United States, showing the dangers and abuses that have developed and that have created the railroad problem of our day. The second part consists of ten chapters analyzing the railway problem, giving the history and results of various systems of railway management and control in other lands, discussing broad questions of policy, capitalization, safety, economy, rate making, treatment of employees, political, industrial and social effects of public and private railways, and the remedies that have been proposed for the abuses and difficulties that beset our transportation system in this country to-day. The second part, in short, aims at the causes and the remedies for the transportation ills described in the first part and further elucidated by the additional facts brought out in the second division of the work."

As a source of information Professor Parsons' volume is a rich mine. The author has acquired wide knowledge of his subject by extensive personal investigations in different parts of the United States and in numerous foreign countries. He has interviewed a great many prominent railroad and public officials; he has gone through the voluminous reports of public investigating commissions and committees, and he has attempted to summarize, in a single volume, this host of details acquired by his studies. The effort has been only partially successful, because of the author's inability to exclude all but the most important details. In his preface Professor Parsons speaks "of the great temptation pressing on a writer to tell all the strong facts he has at command, and the ease with which every one of the chapters in this book could be expanded into a volume." Those who read Professor Parsons' book will become convinced that the author has not been able to resist the temptation to include all facts that seem to him important. The result is that the book is wearisome to a degree. It is unfortunate that so valuable a work should suffer so from the author's lack of literary discretion.

*The Heart of the Railroad Problem* is an expansion of chapter three, dealing with "Discriminations" in the larger work on *The Railways, the Trusts and the People*. Each of the most striking forms of discrimination is given a separate brief chapter. The volume ends with a full and suggestive discussion of the remedies for railroad discriminations. This book, like the larger work, was completed early in 1906, shortly before the passage of the railway rate act of June 29, 1906. Had the volume appeared a few months

later the discussion in many instances would doubtless have been largely modified.

Professor Parsons states that "As these studies progressed, the writer became more and more convinced that the 'heart of the railroad problem' lies in the question of impartial treatment of shippers." This is a very true generalization, but is in no wise a new discovery. The author, however, should be given credit for understanding the railroad problem with great clearness. The author is widely known as an advocate of government ownership and operation of railroads, and his discussion of remedies naturally includes an argument for state ownership instead of public regulation. Professor Parsons states that "England, with her rigid control, has not been able to stamp out railroad abuses, and the lesson of English railroad legislation is that the subjecting of private railways to a public control, strong enough to accomplish any substantial elimination of discrimination and extortion, takes the life out of private railway enterprise along with its evils. Even Germany, with all the power its great government was compelled to exert, could not eliminate unjust discrimination until it nationalized the railways." Accordingly, the author believes that national ownership and operation of railways in the United States must be the ultimate solution of the railroad question in this country. As he suggests in the concluding paragraphs of his larger work on *The Railways, the Trusts and the People*: "The public must have a just and impartial service exercising public functions for the public good, and not for private profit. The only way to accomplish this is through public ownership under good political conditions. It is the only way to make railways do their full part in the production of true manhood and right human relationships; the only way to stop extortion and favoritism, and secure the due diffusion of wealth and power; the only way to establish the needful dominance of public interest in the field of transportation, and remove the antagonism of interest between the owners and the public which is the root of railway abuses."

Professor Parsons believes in radical methods. As a practical man, however, he is aware of the political difficulties in the way of the immediate nationalization of American railroads. He says: "This is a practical world, however, and the practical facts are that the difficulties in the way of public ownership of railways in this country at present are very great, and that much good may be accomplished by judicious regulation" (page 307). The final conclusion of the author is that "The economic and governmental changes necessary to make public ownership safe and successful constitute the essence of the ultimate railroad problem."

It is fortunate that the greatest attempt to effect railroad consolidation should have had so able a historian as Professor B. H. Meyer, now a member of the State Railroad Commission of Wisconsin. Professor Meyer's monograph on *The Northern Securities Case* was begun in 1903, and the first six chapters were ready for the printer in January, 1904. Those chapters take the history of the holding company through its formation and its experience in the United States Circuit Court. The first decision of the Supreme Court was rendered in March, 1904, but the final decree by that court was not made until

March, 1905. The last four chapters of the monograph were written after the final decision of the Supreme Court, and cover the history of the Northern Securities Case in the Supreme Court, and in the two circuit courts to which Harriman and his associates resorted for the purpose of preventing the carrying out of President Hill's plan of winding up the affairs of the Northern Securities Company.

Professor Meyer's monograph consists chiefly of a summary of, and brief commentary upon, the record of the Northern Securities Company in each of the courts where the case was tried. The decision of each court is also summarized. At the beginning of the monograph there is a list of the records, briefs and decisions in connection with each trial. These are the sources of information drawn upon by Professor Meyer. There are ten appendices which include a number of instructive documents.

It is interesting to note that Professor Meyer's exhaustive study of the application of the Sherman Anti-Trust Act to the Northern Securities Company leads him to conclude that the act ought to be amended so as not to apply to railroads. His conclusion on this subject is as follows: "I also wish to repeat, what I have expressed before, that I regard the application to railways of the Sherman Anti-Trust Law, of 1890, as one of the gravest errors in our legislative history. It is demonstrable that if railway companies had been permitted to co-operate with one another under the supervision of competent public authority, and the Trans-Missouri and Joint Traffic cases had never been decided, the railway situation in the United States would to-day be appreciably better than it is. However, this is speculation. Nevertheless, even to-day some legislation which will enable companies to act together under the law, as they now do quietly among themselves outside of the law, is imperative. The American public seems to be unwilling to admit that agreements will and must exist, and that it has a choice between regulated agreements and unregulated extra-legal agreements. We should have cast away more than fifty years ago the impossible doctrine of protection of the public by railway competition."

Mr. Walter Loring Webb, formerly assistant professor of civil engineering at the University of Pennsylvania, has endeavored to present the *Economics of Railroad Construction* briefly within the compass of a volume of 339 pages. The book is written particularly for students taking engineering courses, and will doubtless be appreciated by teachers who desire to give engineering classes a general survey of the problems which have to be considered by those who are concerned with the location, construction and operation of railroads.

The book is divided into three parts, dealing in turn with the financial and legal elements of the problem, the operating elements, and the physical elements. The first part of the book contains a very partial summary of the facts regarding statistics, organization, capitalization, valuation and volume of traffic of railroads. This part of the book deals with what economists have come to call railroad economics. It is to be hoped that the introduction to that subject contained in the first part of Professor Webb's book will lead students to study other works in which railroad economics are more adequately treated.

A more accurate and descriptive title for Professor Webb's book would have been "The Technical Problems of Railroad Construction and Operation." The volume is not intended to be an engineering work, but rather a work for engineers, written to state some of the problems with which engineering science must deal. Considered from this point of view the book must prove useful in spite of the fact that it contains but a brief, and in the main non-technical, discussion of the complicated questions of operating expenses, motive power, car construction, tracks, train resistance, grades, curvature, etc.

*The History of the Ohio Canals: Their Construction, Cost, Use and Partial Abandonment* is an excellent piece of work. The Ohio State Archaeological and Historical Society is to be commended for bringing about the preparation and publication of this volume. The work is divided into three parts: (1) History of the Ohio Canals, (2) Financial Management, (3) The Value to the State. Parts one and three were written by Mr. C. C. Huntington, and part two by Mr. C. P. McClelland. Mr. Huntington was a graduate student in the University of the State of Ohio, and Mr. McClelland was a member of the senior class at the time the volume was written. Both gentlemen worked under the direction of Dr. J. E. Hagerty, Professor of Political Science and Economics in the Ohio State University.

Such studies as this are much needed. The history of transportation in the United States has been as yet only partially covered. Fortunately, numerous young men are at work on different parts of the subject, and it is to be hoped that their work will result, in the not-distant future, in the publication of a large number of monographs similar to this one on the Ohio canals.

Every reader of this volume will be interested in the conclusions reached as to the future of canal transportation in Ohio. Mr. Huntington, the author of the concluding portion of the book, does not commit himself definitely to recommended that the state retain and enlarge its canals, but in discussing the question of whether the state should sell out or improve its waterways, he very clearly leans towards the retention and improvement of the canals by the state. He says: "The demand for transportation is increasing faster than facilities for transportation. Along the canal route are thousands of acres of coal undeveloped, besides many mines in operation. The uncertainty of our waterways hitherto has prevented the development of many industries."

... "It is probable, however, that two routes, one at the west and the other probably through the middle of the state or in the eastern part, would best accomplish the desired results."

EMORY R. JOHNSON.

*University of Pennsylvania.*

**Smith, J. Allen.** *The Spirit of American Government.* Pp. xvi, 409. Price, \$1.25. New York: The Macmillan Company, 1907.

In this volume Professor Smith undertakes to establish the thesis that the government of the United States under the Constitution is aristocratic or non-democratic. He asserts in effect that the constitutional convention of 1787 was a conspiracy to circumvent or prevent the free exercise of the

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popular will. He declares that the method of amendment provided in our great charter is obnoxious to democracy. Our government was designed so that wealth might control or the aristocratic classes could dominate its machinery. Our Supreme Court has usurped powers and exercised them to the defeat of the public will formally expressed by statute "inasmuch as laws cannot be enacted without the consent of a body over which the people have practically no control" (page 101). Our much lauded "checks and balances" are rocks on which true democracy breaks. Our parliamentary procedure in Congress is impudently autocratic or oligarchical. "Our constitutional arrangements are such as to deprive the people of effective control" over parties (page 211); but even if not so, our political bosses, rings, or machines can by disposal of the patronage "grant or revoke legislative favors." Our parties, like our government, are dominated by wealth and privilege. The same defects or defaults he finds in our state constitutions and governments. In cities the right of self-government has been lost—indeed, the city or municipality is merely "a creature of the general government of the state" (page 264). In short, we do not live in a democracy. Neither do we enjoy republican institutions. The flag floats over an aristocracy with oligarchies chiefly in charge.

Professor Smith's narrative and discussions are interesting and are lucidly and vigorously presented. Every page shows evidence of much investigation and reflection and earnest analysis. Nevertheless, we are certain that his argument will from start to finish prove not only unsatisfactory but exceedingly exasperating to those who believe and insist that a democracy must be safe, sane, and stable as well as adjustable; that it must protect property as well as persons; that it must safeguard the rights of the minority as well as the majority, or, rather, the dominant faction of the major party. This volume should have been entitled—and the reviewer means no disrespect—"An Academic Plea for Mob Rule."

The fundamental fallacy vitiating the entire narrative is the author's misconception of the nature of democracy, due primarily to his non-appreciation of the inexorable necessities of a sovereignty. A democracy, if it is to be efficient, requires precisely the same sort of governmental machinery that is found in a monarchy. The distinctive difference lies, not in the devices of administration, but in the method of control and in the different apportionment or assignment of the benefits and burdens of government. In order to get democracy and justice we must enforce law and order. These desiderata exact the establishment and maintenance of the executive, legislative and judicial functions and structures. Of necessity they are equi-potent and in their separate spheres exclusive. If democracy is not to issue in mob rule and lynch law, we must so coordinate them as to secure equilibration. The processes of government must be cooperative and definite. Deliberation and delay, definitive decisions of judicial tribunals are essential. Mobs are not always violent or disorderly and sporadic in development. They sometimes are systematically aroused into being by demagogues and sentimentalists and operate by means of ballots and legislatures, and life, liberty and the pursuit of happiness are put in jeopardy unless the private

citizen can appeal to the courts against the injustice of their acts. Constitutional law, as we know it in the United States, is designed to deal with Philip drunk as well as with Philip sober, peaceful and just.

F. I. HERRIOTT.

*Drake University, Des Moines, Ia.*

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**Takekoshi Yosaburo.** *Japanese Rule in Formosa.* Pp. xv, 342. Price, \$3.00.  
New York: Longmans, Green & Co., 1907.

This book is a composite product partaking of the characteristics of a critical work on colonization, a government report and a traveler's note book. It is marred at points by the introduction of discussions irrelevant or too detailed to deserve a place in a work of this nature. This does not prevent the volume from giving an excellent picture of what Japan has accomplished and wishes to accomplish in Formosa. The latter is at times over-emphasized, giving the book administrative bias. In other instances the polite, formal style in which the author writes and the finality with which the statements of various writers on colonial problems are quoted, are such as to make the reader smile.

Mr. Takekoshi writes from his personal experience in two extended tours through the island and his ability to see the contrasts and similarities in the peoples and the economic and geographical conditions make the book not only informing but entertaining.

Japan's mission as the bearer of western civilization to her eastern neighbors has thoroughly impressed itself on the author's mind. To him Formosa seems but a stepping stone, a proving ground in which the ruling country is already showing her fitness for the work she is called to do. From this point of view he proceeds to the examination of the island. "The basis of all development is peace," has been the theory upon which Japan has proceeded since her acquisition of the island in 1895. Mistakes in the measures to bring about order were made at first, and not until 1902 were conditions such as to give the island a chance for normal development. Before that time the military had been the preponderant influence, and had not succeeded in crushing out the spirit of disorder due to the unsuitability of the regular levies for fighting in a country where the brigands were expert in guerrilla warfare. Viscount Kodama, who was placed in control in 1902, made all military power subject to the civil, and did everything in his power to obtain the goodwill of the natives. They were made to feel that the Japanese Government had come to stay and would protect them against the brigands who were terrorizing the country. With the spread of this spirit the task of restoring order became much less difficult, for the people became willing to aid the government where formerly they had hindered it through fear of the consequences to follow when the punitive expeditions had withdrawn.

As an aid in restoring order and as means to maintain it the government engaged in numerous branches of work for the improvement of life in the islands. Railways were rapidly built, the cultivation of sugar and

the production of salt were aided, telegraph, telephones, and roads were undertaken. Opium and camphor were made government monopolies, the use of the former being greatly restricted. The legal systems, especially the land laws, were remodeled, steamship lines were subsidized, schools started, and, perhaps as important as any other feature, an excellent system of sanitation was established which made the towns formerly hotbeds of tropical diseases bear favorable comparison with any of the cities located in similar climatic conditions. Notwithstanding the great expense attendant upon these improvements, the economic resources of the island have recovered so rapidly that Japan is no longer forced to contribute to the maintenance of the colony.

The latter portion of the book contains numerous valuable statistical tables relating to the resources, population and trade of the islands, an extensive bibliography and a good map. The illustrations are clear and well chosen.

CHESTER LLOYD JONES.

*University of Pennsylvania.*

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**Washington, B. T. *Frederick Douglass.*** Pp. 365. Philadelphia: G. W. Jacobs & Co., 1907.

Mr. Washington is already familiar to the American public, not only as one of the greatest educators and constructive statesmen of our times, but also as one of our most popular authors. This time he appears in the rôle of biographer of Frederick Douglass, perhaps the most remarkable personage of the negro race of the last century.

After a hasty and necessarily limited narrative of the early life of Douglass we are ushered in upon his public career, which began in 1838, soon after his escape from slavery, at the age of twenty-one.

Douglass, having been born a slave, and having suffered all the horrors of the system, was the one man for whom the abolitionists looked, and as a "human argument" he was always convincing, whether in Europe or America. Not only the strong sympathy and earnest zeal of Mr. Douglass are depicted, but most strikingly, his broad grasp of the whole situation, and his general good judgment. He was the last great abolitionist to stay by John Brown; the leader and inspirer of the free people of color in the North; a director, and his home in Rochester, N. Y., a chief center of the underground railway, and a chief advocate of the necessity for negro soldiers in the Union army. It is significant that Mr. Washington, himself the uncompromising advocate of industrial education, should pay tribute to Douglass who advocated the same training years before the birth of Mr. Washington.

The book is exceedingly clear and simple in its style. Quotations, especially from Mr. Douglass' own writings, are used in abundance. One might wish that Mr. Washington, bringing his own wide experience with the problems bequeathed to him and his by those of Douglass' day, might have passed more decisive judgment upon some of the actions of his subject. But the author appears not as a hero worshiper or a critical judge.

R. R. WRIGHT, JR.

*University of Pennsylvania.*

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**Wendell, Barrett.** *Liberty, Union, and Democracy.* Pp. 327. Price, \$1.25.

New York: Charles Scribner's Sons, 1906.

This is in many respects a remarkable book. Even those who disagree fundamentally with the brilliant generalizations of the author cannot deny the bristling suggestiveness of every page. The breadth of view and acuteness of analysis which characterize this book give it an unique place in our political literature. Briefly stated, it is an attempt to present the fundamental characteristics of American political psychology. As such it ranks far above the efforts of Boutney, Klein, Hanet and the other French writers who have attempted to present the race psychology of the American people.

Mr. Wendell has made a conscientious effort to reach the foundations of our national character. In his view we must look to the Englishmen of pre-Revolutionary England (1620-25) for the origin of those traits which are characteristically American. In a few paragraphs the author brings out clearly the contrast between the Englishman of 1620 and the Englishman of 1775. The idealism of the first period was inherited by the early settlers in America and was most marked in the New England colonies. "The origin of our national character can be traced to the instinctive idealism of pre-Revolutionary England, strengthened by the intensely orderly idealism ingrained in those who faithfully accepted the Calvinistic creed." This strain of idealism has persisted in American character in spite of our extraordinary industrial prosperity. To superficial observers we may seem materialistic; to the careful student of American life our national character, while seemingly material, is in reality idealistic.

In the chapter on "Liberty" the author traces the conflict between the two concepts which prevailed in the United States prior to the civil war, that of individual liberty and national unity in the North and that of local self-government in the sense of state sovereignty in the South. The tragedy of the conflict which ensued is eloquently described. The chapter on "Union" is devoted to an examination of the gradual growth of the spirit of national unity as finally expressed in the results of the Civil War.

In his treatment of "Democracy," which forms the subject of the final chapter, Mr. Wendell shows the marked differences between the American and the European concepts. "However fervently Americans may have believed that all men are created equal, they have never gone so far as to insist that all men must remain permanently so." The Napoleonic watchword, "Careers open to talents," has occupied quite as prominent a place in the American mind as the belief in equality.

This very brief summary gives an inadequate idea of the value of Mr. Wendell's essay. There is at present a widespread tendency to sneer at these attempts to encompass national psychology within a series of brilliant generalizations. When, however, these generalizations are as suggestive as those presented in this little book they well deserve and must receive the attention of every student of political science.

L. S. ROWE.

*University of Pennsylvania.*

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**ABBREVIATIONS.**—In the index the following abbreviations have been used: *pap.*, principal paper by the person named; *b.*, review of book of which the person named is the author; *r.*, review by the person named.

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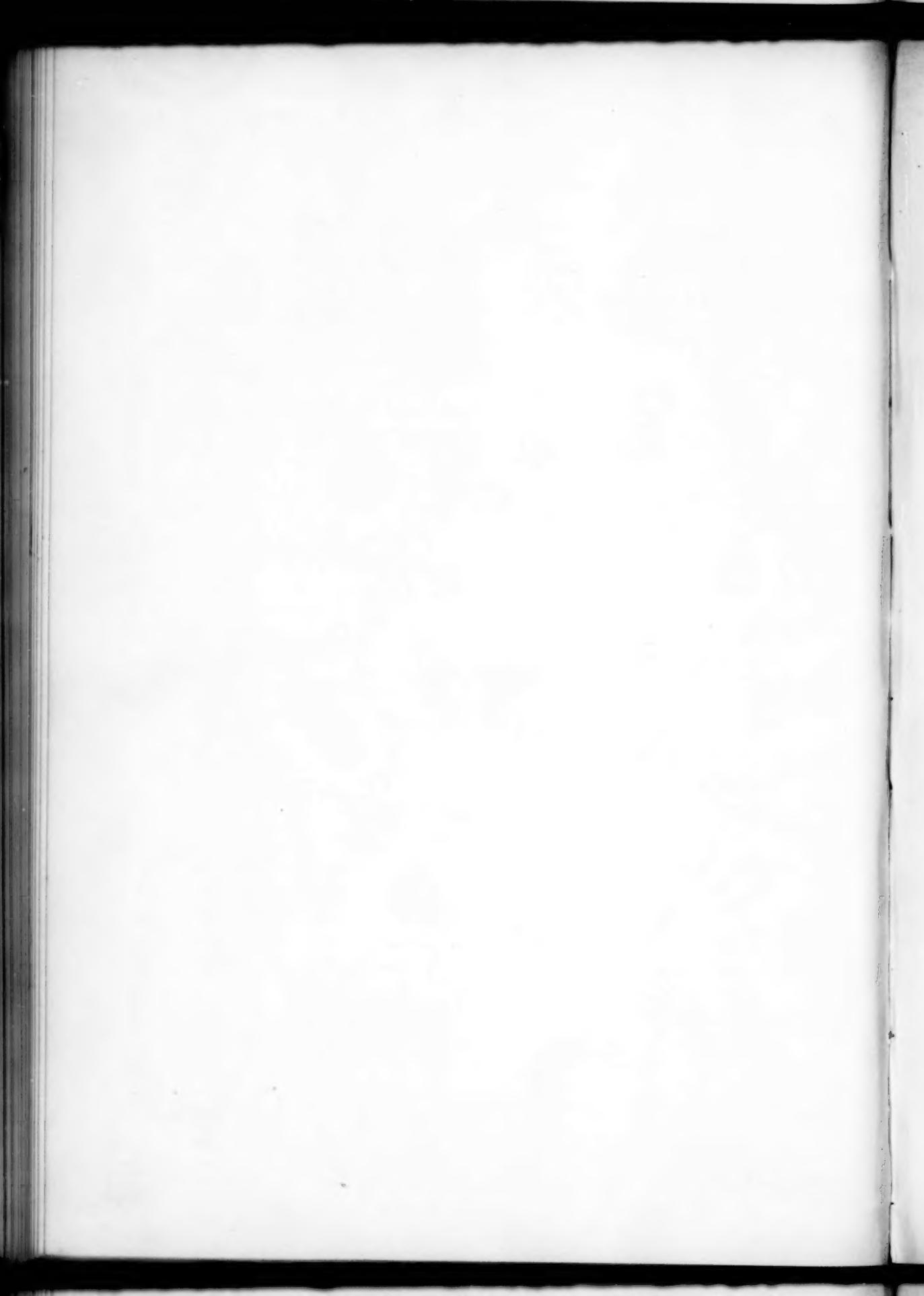
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SUPPLEMENT TO  
THE ANNALS OF THE AMERICAN ACADEMY OF POLITICAL  
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## IMPERSONAL TAXATION

A discussion of some rights and wrongs of  
Governmental Revenue

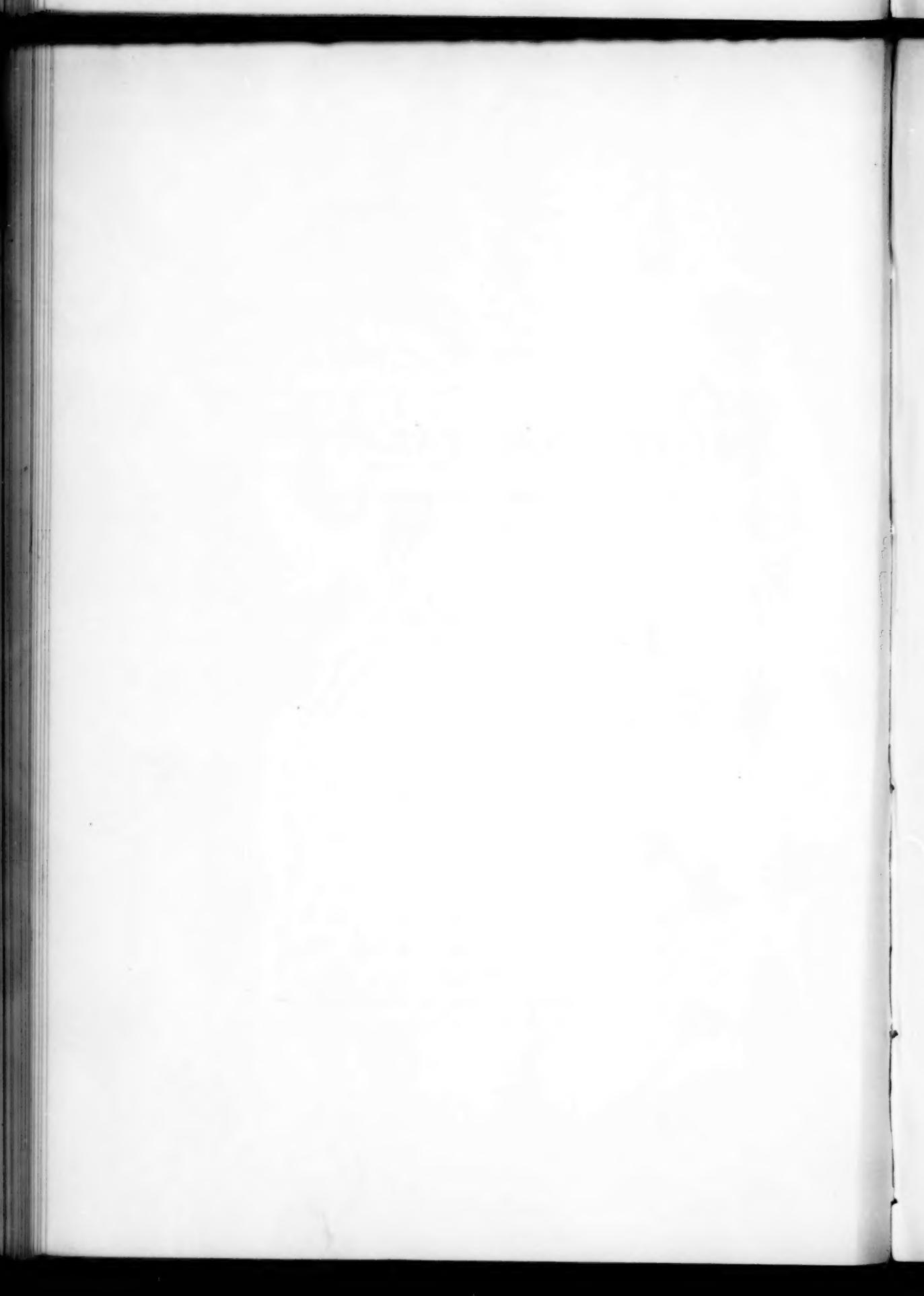
BY  
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Of the Massachusetts Bar

QUIS CUSTODIET IPSOS CUSTODES NISI IUSTITIA?

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1907

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## FOREWORD

The question of governmental revenue is not only important in itself, but has an added importance in a country professing to be actuated by a devotion to human rights and personal freedom, lest the government may violate the very right which it professes to maintain. This importance must be the excuse for the following pages on a well-worn topic. There is no new thing under the sun. Probably most of the thoughts herein contained have been both heretofore and better expressed. In fact, one of the vital ideas of these pages was written six hundred years ago. But just as a worker in mosaic may use the most ancient pebbles to make a new picture, so a writer may use the most ancient thoughts to present his view.

It is in no spirit of dogmatism that these pages are compiled, but rather as an attempt to find some path of consistency, reason, and justice, in a chaotic subject vitally related to the rights of every man; as to which rights an editorial in the Boston *Herald* of June 26, 1906, contained the following suggestive passage:

Men are coming to think as men rather than as denizens of some particular spot of earth. Views are broadening. The human relation in the world of affairs has a larger meaning than it ever had before. But it does not follow, by any means, that socialism, solidarity, communism, collectivism, or whatever among forty names may be given to the act of mortgaging society to government, is the goal and summit of civilization. Mankind is a very great and wonderful thing, but, after all, it is made up of men. And it is only by the higher development of the individual man that men are led by loftier routes along their march to destiny. The socialists may disdain the individual man, but none the less they must reckon with him. He is the bar to their plans.

From the earliest times the questions of public revenue have furnished the themes for animated discussions and the occasions for bloody and momentous conflicts. In the ancient despotisms its collection was a matter of mere force, but in the middle ages there began to be a gleam of right feeling in the professed relations between princes and their peoples, and in modern times the note of equality has been loudly sounded as the just consideration.

Accordingly, innumerable statutes have been devised to pursue this assumed ideal along ever more rocky paths of apparent human perversity. Yet the creation of equality by statute implies, in the last analysis, quite as much as the ancient régime of force, that the private individual has no rights which collective society ought to recognize, and which, with Herbert Spencer, we may designate under the name of freedom. The following pages contain an attempt to deal with the fundamental rights and wrongs of public revenue on a basis consistent with the professions of a freedom-loving nation, so that we shall not forget the thought which Emerson has uttered on behalf of all:

For what avail the plow or sail,  
Or land or life, if freedom fail.

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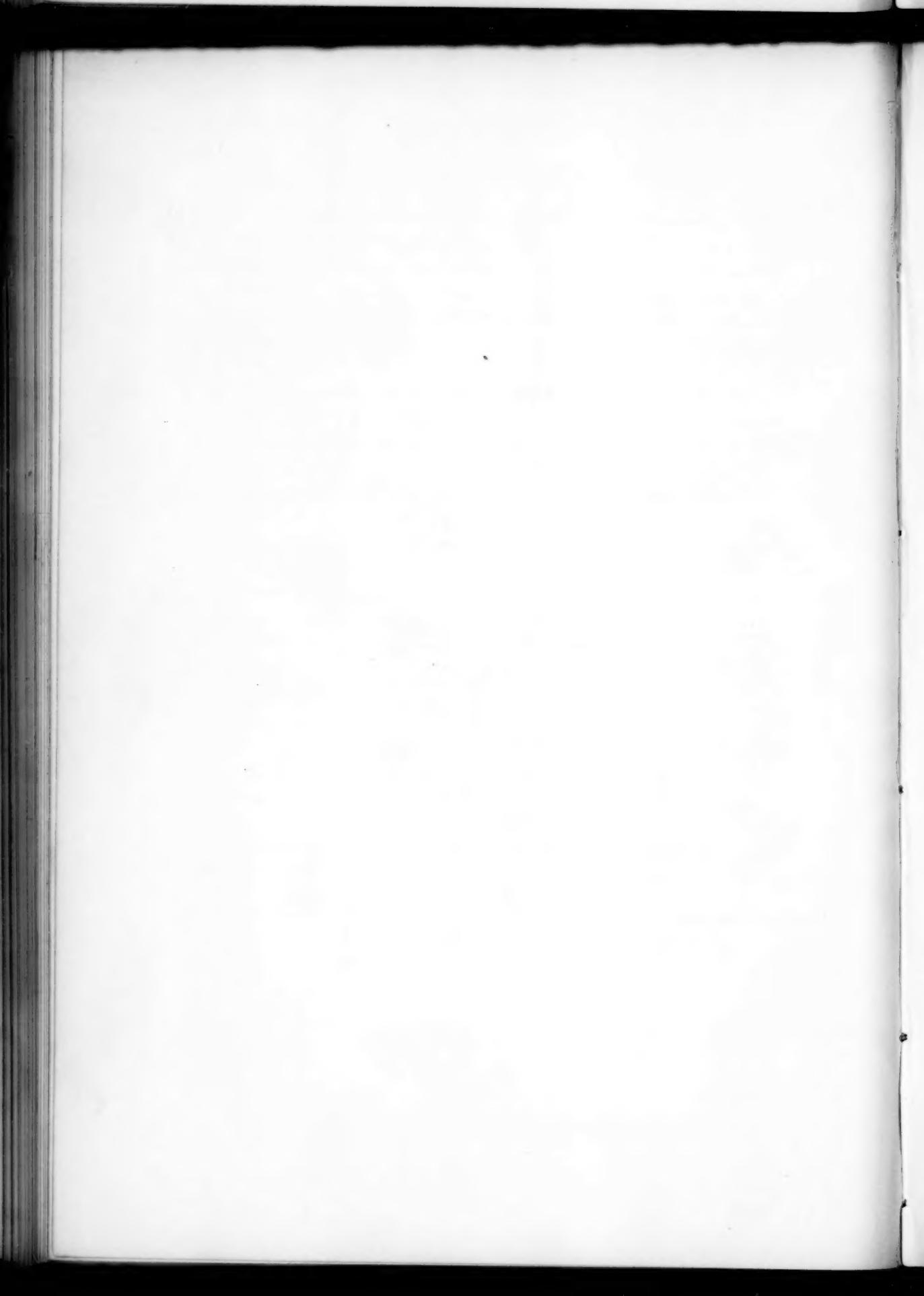
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## CHAPTER I

### INDUSTRIAL FREEDOM

It is probably true, as President Eliot suggested in an address before one of the labor unions at Boston, that at the present time the passion for personal freedom is less ardent than in the middle of the nineteenth century, but perhaps this cooling of the feelings is not on account of any lessening of the love for real freedom. It may rather be on account of an uncertainty in many minds as to the scope of freedom or a haziness of definition as to what it may or may not include.

To be untrammeled, to be unrestrained, is the first thought of freedom, and this idea of absence of restraint is the starting point of freedom as a general term, but when we come to specific kinds of freedom we find that absence of one kind of restraint does not necessarily imply absence of all kinds of restraint. Thus a man in prison may be free from physical pain, and a man out of prison is nevertheless forbidden to steal; for it is an ancient doctrine that one man's freedom must not encroach on another man's right.

So when we come to consider freedom in an industrial sense we cannot say that it is merely the absence of restraint, but rather the absence of some particular kind of restraint. We prevent a child from playing with fire or dangerous tools and we do not feel that we are invading the child's freedom by so doing. The child is clearly in danger of injuring himself and it is for the child's benefit to be restrained. We seek to prevent the turbulent man from making an assault and battery on his neighbor and we do not feel that we are invading the turbulent man's freedom, but rather that we are protecting the neighbor's freedom. It is for the neighbor's benefit that the turbulent man should be restrained. But when a man is by force and threats restrained from seeking his own best good and driven to labor for another at that other's behest, or is deprived of the fruits of his labor at the option of a master, we have an entirely different situation. This is depriving a man of

the chance to make the best of himself. This is the exercise of a proprietary claim over a human being. This is slavery, and the purpose of it is not for the benefit of the slave, but for the benefit of the master.

We may thus classify restraints under three heads:

1. Restraint for the benefit of the restrained.
2. Restraint for the benefit of another.
3. Restraint for the benefit of the restrainer.

These may be called respectively the tutelary, the protective, and the proprietary dominions.

An example of the first is guardianship. The second appears in the usual processes of the civil and criminal law for the protection of life and property and the punishment of injuries. Either the first class or the second may be unjust and oppressive in a case not reasonably necessary for the protection of some preexisting right. It is the third which particularly violates freedom, for freedom in an economic sense is the chance to make the best of one's self, and a restraint for the benefit of the restrainer is the exercise of a proprietary interest over a man, which is inherently inconsistent with that man's chance to make the best of himself. It is perfectly true that in a specific case the subject might, if free, choose to do the very work or service required by the master and for no greater compensation, but the wrongfulness of the exercise of a proprietary interest over a man is not in the specific acts of hardship involved, but in taking possession of the man himself. As Dr. Lyman Abbott has expressed it in his "Rights of Man," it is an invasion of personality. It is the perversion of one man's life to the uses of another. "The injustice of slavery did not lie in the fact that the slaves were ill-fed, ill-clothed, or ill-housed. . . . The evil of slavery was not that families were separated. . . . The injustice was not in specific acts of cruelty. . . . The wrong of slavery lay in this: that personality was invaded; the product of the man was taken from him; he had put a part of his life out into the world and he was robbed of it. Whenever and however society does this, it does injustice." ("Rights of Man," page 105.)

The failure to take account of the different classes of restraints perhaps explains the uncertainty in the minds of many as to the rightfulness of freedom in any sense except as a favor conferred which may be withdrawn. A misapprehension of the economic

basis of freedom as an economic means toward an economic end may cause us to deny the existence of a right to freedom in the presence of misapplications of it. Take for a specific instance freedom of contract, or the doctrine that a man has a right to sell his goods or his labor for such compensation as seems good to him. Shall we say that by virtue of freedom of contract he may once for all sell himself into slavery? By no means. Freedom of contract is an economic means toward an economic end. It must be exercised for an economic purpose, but slavery is the contravention of the highest economic purpose, as it destroys the chance of the slave to make the best of himself. We must distinguish, however, between an economic purpose and an adequate return. Freedom of contract implies that a man may exercise his judgment or his sentiment in a trade and may take a totally inadequate compensation in a specific case. He is following an economic purpose in exchanging his goods and labor, even though his judgment may be poor or his sentiments may lead him to give his property away; provided always that he does not go to such an unreasonable extent as to require a guardian. So long as a man is following an economic purpose, freedom of contract is essential to the chance to make the best of himself, even though he may not yet understand how best to use the chance. It may be difficult to say where the economic purpose ends, but beyond that limit freedom of contract ceases to operate and the man may be justly restrained, for his own benefit when he threatens his own rights disastrously, or for the benefit of others whose rights are endangered.<sup>1</sup>

Nevertheless, in applying the restraints of the first and second classes, for the benefit of the restrained or for the benefit of others, we must always be careful that we do not encroach upon the third

<sup>1</sup>The converse of this analysis in its application to the principle of guardianship the present writer discussed in an article on "Child Labor in the United States of America," in the *Revue Économique Internationale* of Brussels for July, 1906, and described it as the guardianship of persons who for the time being are incompetent to take care of themselves without inflicting on themselves a greater amount of injury than the probable benefits which might come from the experience would justify. The principle of freedom of contract was considered by the present writer, in an essay on "Monetary Problems and Reforms," published in 1897, as the starting point for the development of a healthy monetary system. For an exhaustive study of the developmental treatment of economic subjects the reader is referred to a recent work by Dr. Rudolf Kobatsch, of Vienna, "*Internationale Wirtschaftspolitik. Ein Versuch ihrer wissenschaftlichen Erklärung auf Entwicklungsgeschichtlicher Grundlage.*" Wien, 1907; Manzsche Univ. Buchhandlung.

class, restraints for the benefit of the restrainer, for such a restraint is a violation of freedom, the chance to make the best of one's self. Accordingly, we may say that there is always a strong presumption against governmental action until that action clearly appears to be outside the third class of restraints, lest the organized state may be in the position of restraining, not for the benefit of the restrained nor for the benefit of third persons whose rights are threatened, but merely for the benefit of itself; for although within its own sphere the government must surely govern, yet the organized state is after all only an enlarged and artificial or juridical person, and as such person should be held to the full regard for the rights of others. This presumption against governmental action appears in the English common law as the presumption of innocence in criminal matters. If the English-speaking peoples had never done anything else and never should do anything else except to teach this doctrine of the presumption of innocence, they would nevertheless be entitled to the gratitude of mankind.

But in dealing with governmental restraints we must further distinguish between two kinds of restraints. One is the case in which the state by its own motion or decree assumes for its own benefit to invade the personality of some man or to deprive him arbitrarily of a right which a private person would not be allowed to take away from him. This is the normal type of an attempt to exercise a proprietary interest over him and comes within the condemnation of the general rule. The other case is only apparently similar and arises when the state as the owner of some antecedent property or right seeks to protect that property or right from invasion as it would do for the property of a third person. In this case the state acts for itself, not as itself, but as if it were a third person because of the absence of any stronger power to which it may appeal for the protection of its right, for the state as a large artificial person organized to serve certain legitimate ends is entitled as well as any other person to hold, acquire, and conduct any property or business of public interest, provided the state has means of paying for and a reasonable prospect of using the same successfully. But though as a great artificial person the state is thus endowed with the same rights of acquiring ownership as a natural person, it ought, like a natural person, to observe a scrupulous regard for the rights of others and ought not to claim or exercise any such proprietary interest

as in the hands of a natural person would be an invasion of the rights of another natural person. Accordingly, it ought not to enslave its people or assert proprietary claims over them in economic matters. We may say with Aristotle that man is naturally a political animal, but we need to beware of assuming that, because the formation of political entities is a natural human function for natural human purposes, it involves the abrogation of personal freedom. Rather should we say that the true purpose of making political entities is to promote that freedom, and that governments should exist for the benefit of the people and for the benefit of each and every individual in the people.

It is perhaps by a perception of these distinctions that we may explain the apparent anomaly that the country of Washington and the party of Lincoln feel justified in holding colonies in distant seas and exercising government without the consent of the governed. The belief in liberty may be as great though the confidence in the tools used may be less. The experiment of giving suffrage to the Negro has not been so successful as to inspire the most perfect confidence in the wisdom of giving razors to children. Industrial freedom is not the perfunctory copying of fixed machinery in political matters, however valuable that machinery may be in favorable conditions. A well-managed monarchy may give a nearer approach toward freedom than an ill-managed republic, for although there is a presumption against governmental restraint lest it may be an interference with freedom, yet when once the justness of a project as a field of governmental action is established, then the best results will follow from the most efficient action, and true freedom can never require inefficiency.

These seem like stale thoughts in this age of the world, but it can do no harm to rehearse them at the present day when many seem almost ready to assert that man has no rights at all except such as are graciously conferred on him by an omniscient hydra-headed state, and others are loudly proclaiming by voice and pen and the assassin's bullet that governments have no right to exist at all. We shall be better able to avoid both the one and the other extreme, if we bear in mind the different kinds of restraints, the presumption against governmental action lest a restraint may be an interference with freedom, the position of the state as an enlarged economic person, and the value of efficiency within the proper

public field—always remembering that the assertion of a proprietary interest over a human being, whether by planter, prince, parliament or people, is fundamentally and inherently inconsistent with the chance to make the best of one's self, and is a denial of freedom. It is in this sense that we may say that economics, dealing with wealth or well-being, should be the science of industrial freedom, the science that defines, exemplifies, and conserves that freedom.

## CHAPTER II

### FEUDALISM

Sir Frederick Pollock, in his essay, "English Law Before the Norman Conquest" (Appendix to "The Expansion of the Common Law"), describes the condition of Saxon society as follows: "There were sharp distinctions between different conditions of persons, noble, free, and slave. We may talk of 'serfs' if we like, but the Anglo-Saxon 'theow' was much more like a Roman slave than a medieval villein. Not only slaves could be bought and sold, but there was so much regular slave trading that selling men beyond seas had to be specially forbidden.

"Among free men there were two kinds of difference. A man might be a lord having dependents, protecting them and in turn supported by them, and answerable in some measure for their conduct; or he might be a freeman of small estate dependent on a lord. In the tenth century, if not before, every man who was not a lord himself was bound to have a lord on pain of being treated as unworthy of a free man's rights; lordless man was to Anglo-Saxon ears much the same as 'rogue and vagabond' to ours. This widespread relation of lord and man was one of the elements that in due time went to make up feudalism. It was not necessarily associated with any holding of land by the man from the lord, but the association was doubtless already common a long time before the Conquest, and there is every reason to think that the legally uniform class of dependent free men included many varieties of wealth and prosperity. Many were probably no worse off than substantial farmers, and many not much better than slaves."

The essential and fundamental idea in feudalism was a pyramidal arrangement of society from the king down to the lowest rank of the population so that every man of an intermediate grade was subject to some other man of a higher grade and in turn might be entitled to a subjection on the part of some other man of a lower grade, while the king or emperor was subject unto God, and a slave

was at the bottom of all subjection.<sup>2</sup> As a slave was totally bereft of all rights to use and dispose of himself to the best advantage and was in effect an article of property to his master, so every man of intermediate rank was partially bereft of rights to use and dispose of himself to the best advantage and was in effect subjected to the proprietary rights of the rank above him. And so it was, up to the king, who was held to be endowed with his power in trust for his people, and answerable to God alone, unless the king should violate the terms of the trust. For it was supposed that the multitude of interlocking subjections was founded upon and justified by a series of reciprocal protections,—that every man in his partial weakness had sold himself in whole or in part to a stronger for protection, and this supposition was the human justification for the system.

We must not be too ready to condemn feudalism. In an age of force and brutality, when the rightfulness of property in human flesh was scarcely disputed, it was only natural that the partial recognition of personal rights should be qualified by a partial recognition of the proprietary claims of superiors, and it was at least an advance from the dead level of universal subjection in the autocratic Roman Empire that there should be a theoretic human basis for society, that some at least should have a partial freedom rather than that all should have no freedom,—that all should have at least some theoretic rights which even the king ought not to restrain rather than that all should be at the mercy of a universal despotism.

The glory of feudalism was in the fact that it was a step, a blind and staggering step, but yet a step toward freedom. The vice of feudalism was in the fact that it recognized and asserted the rightfulness of a proprietary claim over a man. But feudalism contained the seeds of its own decay. The notion that the king or the government was bound to give protection easily developed into the notion that he or it must give it as a matter of right to all men. It is the function, the very reason, of the government's existence

<sup>2</sup>Bracton, in his monumental work, "Of the Laws and Customs of England," speaks thus of the king (Bk. 1, Ch. 8): "There are also under the king freemen and serfs subject to his power, and every person is under him, and he is under no one, but only under God. He has no peer in his own kingdom, for so he would forfeit the precept, since equal has no power over equal. Likewise much less ought he to have any superior or more powerful person, for so he would be inferior to his own subjects, and inferiors cannot be equal to their superiors. But the king himself ought not to be under man, but under God and under the law, for the law makes the king."

to give protection, not to sell it for base subjection and servitude. It is the right of the rich and the poor alike, in spite of their poverty, and irrespective of their riches. Thus spoke the barons at Runnymede, and King John replied, "We shall sell justice to no man and deny it to none."

What, then, were some of the manifestations of feudalism? First and fundamentally was the idea that every man must have a lord, so that a "lordless man" was almost outside the law. And from this came the name and the ceremony of "homage" by which the subject acknowledged himself as the man of the lord. Then again there was the notion that the lower ranks of society ought in some degree to be tied down to the soil or restricted to some limited district, so that in comparatively modern times in England it was illegal for a working man to seek to better his life by migration,—a doctrine logically dependent on the theory that the superior might justly claim a proprietary right over the inferior,—that by an act of conquest or an act of more or less voluntary homage countless generations might be doomed or sold into partial or complete slavery. On this same proprietary theory rests also the doctrine of perpetual and interminable allegiance. These are some of the personal manifestations of feudalism. But although the feudal relation of lord and man "was not necessarily associated with any holding of land by the man from the lord," yet feudalism, as its name implies, reached its most elaborate and intricate development in connection with land-holdings. How then did feudalism manifest itself as applied to the land?

Blackstone, in his *Commentaries* (Book 2, Chapter 4), says of the establishment of the feudal system of land tenure, that it originated from the military policy of the northern nations who "poured themselves in vast quantities into all the region of Europe at the declension of the Roman Empire." It was introduced by them "in their respective colonies as the most likely means to secure their new acquisitions; and to that end, large districts or parcels of land were allotted by the conquering general to the superior officers of the army, and by them dealt out again in smaller parcels or allotments to the inferior officers and most deserving soldiers. These allotments were called *feoda*, feuds, fiefs, or fees; which last appellation, in the northern language, signifies a conditional stipend or reward. Rewards or stipends they evidently were, and the condi-

tion annexed to them was that the possessor should do service faithfully, both at home and in the wars, to him to whom they were given; for which purpose he took the *iuramentum fidelitatis*, or oath of fealty, and in case of the breach of this condition and oath, by not performing the stipulated service or by deserting the lord in battle, the lands were again to revert to him who granted them."

But this was not a mere naked condition from which the landholder could purge himself by surrendering the land at his option. There was by the oath of fealty the bond of personal subjection to the lord, and Blackstone tells us that in addition to the oath of *fealty*, "or profession of faith to the lord, which was the parent of our oath of allegiance," the tenant must also do homage, by which "openly and humbly kneeling" before the lord, the tenant professed that "he did become his *man*, from that day forth, of life and limb and earthly honor." Bracton, in speaking of homage (Book 2, Chapter 35, Section 2) says, "Likewise homage is contracted with the good will of each, of the lord as well as of the tenant, and through the contrary will of each is it dissolved, if each has wished, because nothing is so agreeable to natural equity than that everything should be loosed by that principle by which it is bound (*unumquodque dissolvi eo ligamine quo ligatum est*). For it does not suffice if only one has wished this." And in regard to the tenant who disavows his service to his lord, Bracton says a little later, "And the lord in this case is entitled to two remedies, as it seems, either that he should claim the tenement of his tenant, which he ought to hold of him in domain, because he is disavowed by the tenant, in whose person the obligation fails, or that he should claim the service, on the ground that the obligation holds good in his person, and should remit of grace to the tenant the tenement." After the homage of the tenant, Blackstone continues, "The next consideration was concerning the service, which, as such, he was bound to render in recompense for the land that he held. This, in pure, proper, and original feuds, was only twofold; to follow or do *suit* to the lord in his courts in time of peace, and in his armies or warlike retinue when necessity called him to the field." This was the original military tenure of feuds, which, "as they were gratuitous, so also they were precarious, and held at the will of the lord who was then the sole judge whether the vassal performed his services faithfully." In time the custom arose to bestow the feud of a dead

vassal upon a male heir who could perform the services, and later the feuds were granted to a man and his heirs. "But the heir when admitted to the feud which his ancestor possessed generally used to pay a fine or acknowledgment to the lord, in horses, arms, money, and the like, for such renewal of the feud, which was called a relief," because it *raised up* and "re-established the *inheritance*."

From the original nature of the military tenure it followed "that the feudatory could not alienate or dispose of his feud, neither could he exchange, nor yet mortgage, nor even devise it by will, without the consent of the lord." The feudatories, however, early developed the practice of subinfeudation, by which parts of a feud were divided up among inferior tenants under services to the holder of the larger feud. "But this at the same time demolished the ancient simplicity of feuds, and an inroad being once made upon their constitution, it subjected them, in course of time, to great varieties and innovations. Feuds began to be bought and sold, and deviations were made from the old fundamental rules of tenure and succession, which were held no longer sacred when the feuds themselves no longer continued to be purely military." In closing Chapter 4 Blackstone describes the character of the development of the feudal tenure in the following manner: "But as soon as the feudal system came to be considered in the light of a civil establishment, rather than as a military plan, the ingenuity of the same ages, which perplexed all theology with the subtlety of scholastic disquisitions, and bewildered philosophy in the mazes of metaphysical jargon, began also to exert its influence on this copious and fruitful subject: in pursuance of which the most refined and oppressive consequences were drawn from what originally was a plan of simplicity and liberty, equally beneficial to both lord and tenant, and prudently calculated for their mutual protection and defense."

Blackstone (Book 2, Chapter 5), in discussing the varieties of English tenure, classifies the feudal services into *free services*, or such as in a military age might be supposed to be assumed voluntarily in the first place, and *base services*. "Free services were such as were not unbecoming the character of a soldier or a freeman to perform, as to serve under his lord in the wars, to pay a sum of money, and the like. Base services were such as were only fit for peasants or persons of a servile rank, as to plough the lord's land, to make his hedges, to carry out his dung, or other mean employ-

ments." Both free and base services were, as to amount, further divided into certain and uncertain, and by the combination of these elements, on the authority of Bracton, he gives four main kinds of tenure, two in freehold and two in villenage. Of the freehold tenures, one class was "where the service was *free* but *uncertain*, as military service with homage"; this was the military tenure or tenure by knight service. The other class of freehold was "where the service was not only *free* but also *certain*, as by fealty only, or by rent and fealty"; and this was called free socage.

The more honorable, as it was esteemed, and also the more burdensome species of freehold tenure was the tenure of knight service, which drew unto itself seven great burdens or consequences by the gradual encroachments of the lords and their interpretations of the feudal service. These burdens were: aids, relief, primer seisin, wardship, marriage, fines for alienation, and escheat.

1. *Aids* were principally three; first to ransom the lord's person, if taken prisoner; second, to contribute funds to make the lord's eldest son a knight; third, to raise a marriage portion for the lord's eldest daughter.

2. *Relief* was "incident to every feudal tenure, by way of fine or composition with the lord for taking up the estate," after the death of a tenant, "thereby in effect obliging every heir to new-purchase or *redeem* his land."

3. *Primer seisin* was an additional relief payable by the king's tenants in chief and not by those who held of inferior lords.

4. *Wardship* took the place of relief and primer seisin if the ward was a minor. By wardship the lord had the profits of the land and the custody of the minor during the minority, and on coming of age the ward must pay a fine for the possession of the land.

5. *Marriage* was the right to receive a commission for negotiating a marriage of the ward, even if the ward refused the alliance.

6. *Fines for alienation* were payments to the lord "whenever the tenant had occasion to make over his land to another," but only by the king's tenants in chief.

7. *Escheat* was "the determination of the tenure" if the tenant "died without heirs of his blood, or if his blood was corrupted and stained by commission of treason or felony." The land then "fell back to the lord of the fee."

In view of the large degree in which these burdens depended on asserting a proprietary claim over the body or personal services of the tenant by virtue of the feudal bond of personal subjection to a superior, the term "freehold" seems almost a mockery, and must be taken as referring not so much to the condition of the holding as to the supposed voluntariness of its establishment. The services of the military tenure, says Blackstone, "were all personal and uncertain as to their quantity or duration. But the personal attendance in knight-service growing troublesome and inconvenient in many respects, the tenants found means of compounding it; by first sending others in their stead, and in process of time making a pecuniary satisfaction to the lords in lieu of it." This payment was called *scutage* in English, or *escuage* in Norman French. "Hence, we find in our ancient histories that, from this period, when our kings went to war, they levied scutages on their tenants, that is, on all the landholders of the kingdom, to defray their expenses, and to hire troops: and these assessments, in the time of Henry II, seem to have been made arbitrarily and at the king's pleasure." This became a great abuse which parliament many times sought to remedy. "Hence it is held in our old books, that escuage or scutage could not be levied but by consent of parliament; such scutages being indeed the groundwork of all succeeding subsidies, and the land-tax of later times."<sup>3</sup>

Blackstone further observes "that by the degenerating of knight-service, or personal military duty, into escuage, or pecuniary assessments, all the advantages (either promised or real) of the feudal constitution were destroyed, and nothing but the hardships remained. Instead of forming a national militia composed of barons, knights and gentlemen, bound by their interest, their honor, and their oaths, to defend their king and country, the whole of this system of tenures now tended to nothing but a wretched means of raising money to pay an army of occasional mercenaries. In the meantime the families of all our nobility and gentry groaned under the intolerable burthens which (in consequence of the fiction

<sup>3</sup>Kenelm Edward Digby, in his treatise, "An Introduction to the History of the Law of Real Property," Oxford, 1876, at page 36, says that the service of the military tenure was due to the king direct and not to the immediate lord of the fee, unless the lord himself personally attended the king. Digby says: "This is the distinguishing characteristic between English and Continental feudalism, and was fraught with consequences of the most vital import to the growth of the English Constitution."

adopted after the Conquest) were introduced and laid upon them by the subtlety and finesse of the Norman lawyers. For, besides the scutages to which they were liable in defect of personal attendance, which, however, were assessed by themselves in parliament, they might be called upon by the king or lord paramount for *aids*, whenever his eldest son was to be knighted, or his eldest daughter married; not to forget the ransom of his own person. The heir, on the death of his ancestor, if of full age, was plundered of the first emoluments arising from his inheritance, by way of *relief* and *primer seisin*; and, if under age, of the whole of his estate during infancy. And then, as Sir Thomas Smith very feelingly complains, when he came to his own, after he was out of *wardship*, his woods decayed, houses fallen down, stock wasted and gone, lands let forth and ploughed to be barren, to make amends he was yet to pay half a year's profits as a fine for suing out his livery; and also the price or value of his *marriage*, if he refused such wife as his lord and guardian had bartered for, and imposed upon him; or twice that value, if he married another woman. Add to this, the untimely and expensive honor of *knighthood*, to make his poverty more completely splendid. And when by these deductions his fortune was so shattered and ruined, that perhaps he was obliged to sell his patrimony, he had not even that poor privilege allowed him, without paying an exorbitant fine for a *license of alienation*."

"A slavery so complicated, and so extensive as this, called aloud for a remedy in a nation that boasted of her freedom." But in spite of palliatives from time to time it was not till 1660, in the reign of Charles II, that a remedy was reached in a statute by which, with certain trifling exceptions, "the military tenures, with all their heavy appendages, were destroyed at one blow, and turned into free and common socage," which was the second species of freehold, and may be called the civil tenure as distinguished from the military tenure. A similar reform was accomplished in Scotland in the reign of George II.

"Socage, in its most general and extensive signification, seems to denote a tenure by any certain and determinate service. And in this sense it is by our ancient writers constantly put in opposition to chivalry, or knight-service, where the render was precarious or uncertain." (Blackstone, Book 2, Chapter 6.) But socage was feudal, as Blackstone shows by comparing its incidents with those

of knight-service. Both tenures were held of superior lords, of the king as lord paramount, or of an intermediate lord or subject-superior, who was at once a subject of the king and a superior over his own vassals. Both tenures "were subject to the feudal return, render, rent, or service, of some sort or other," but in socage "it was certain, fixed, and determinate," though often nothing more than fealty. "Both were, from their constitution, universally subject (over and above all other renders) to the oath of fealty, or mutual bond of obligation between the lord and tenant." Socage was likewise in some measure subject to those contingent burdens which attached to knight-service, but in a less burdensome degree. Thus socage was subject to *aids* for knighting the son or marrying the eldest daughter. *Relief* was due in socage tenure, if the land was held by a rent in addition to fealty. *Primer seisin* was incident to socage in the case of the king's tenants in chief, and likewise *fines for alienation* in the same case. *Escheat* applied in socage, including generally, except in Kent, escheats for felony. *Wardship* and *marriage*, however, in the sense of knight-service were not applicable in socage. But many of these contingent incidents, or casualties, as the Scottish law called similar burdens, were destroyed for socage tenure by the same statute which abolished military tenure.

The feudal tenure exhibited two general principles: first, the personal bond between the lord and the man or the holding by the tenant of or under a superior; second, the granting of limited interests or estates in the land to the tenant and the retention of a reversionary interest in the lord. From these followed the feudal principle that originally the tenant could not directly aliene his interest in the land, but must surrender it to the lord to have a new grant made to the purchaser, or else he must carve out of his own interest a subsidiary estate to the purchaser. It seems, however, that by the middle of the thirteenth century the power of selling an estate to be held of the same lord of the fee by substitution had already been developed, for Bracton, who wrote at that period, says (Book 2, Chapter 35, Section 12), in discussing homage: "In the same way homage may hold good in the person of the lord conversely, and be dissolved and extinguished in the person of a tenant and revive in the person of another tenant, as, for instance, if a tenant, when he has done homage to his lord, has dismissed himself

altogether from his inheritance and has enfeoffed another to hold of the chief lord, and in which case the tenant is released from his homage and the homage is extinguished, whether the chief lord is willing or not, and it commences in the person of the feoffee, who is bound on account of the tenement which he holds, which is a fief of the chief lord. Likewise the homage, which is then extinguished in the person of the tenant, may be revived again in the person of the same, but from another cause. As if one who has been enfeoffed by him should restore to him the same tenement to be held of the same chief lord."

By the logical development of the feudal law through subinfeudation there was no limit to the theoretic line of subsidiary estates, each carved out of the preceding at each successive sale. Each tenant could subinfeudate his land to be held of himself as a subsidiary or intermediate lord. The result would be very complicated in course of time, and in England the lords of estates complained that through subinfeudation by a tenant they often lost the benefit of the feudal incidents. So in 1290 this general subinfeudation by subjects was terminated by the statute of Westminster the third, from its opening words in Latin called *Quia-Emptores*, which enacted that every freeman might sell his land held in fee simple at his pleasure, but the purchaser should hold it of the same lord of whom the seller held it. This statute was apparently a compulsory adoption of the method of conveyance by substitution, which was already optional, as shown by the above quoted passage from Bracton. It was considered not to apply to the Crown, and several centuries later, in some of the charters of the American colonies, as, for instance, in that of Pennsylvania, the proprietaries were licensed to make subinfeudations. But in general the statute of 1290 may be taken as the turning point of English feudalism. Scotland, however, has retained the principle of subinfeudation under statutory regulations for modern conditions, and thus in that respect the Scottish tenure remains more feudal than the English, although the casualties have been modified and restricted.

We need not assume, however, that the mere succession of a series of estates in the same parcel of land was necessarily an evil, for in modern commercial communities we frequently find large transactions based on mere leaseholds with various degrees of sub-

letting by virtue of special contracts. The feudal estates were not merely successive interests in the land, but successive interests coupled with the personal subjection of the tenant to the lord. This element of personal subjection was the root of all the evils which gradually developed in connection with the feudal tenure. Nevertheless, when the incidents and casualties of the system grew too grievous to be borne the feudal basis of society had become so ingrained in the thoughts of men that instead of abolishing all feudal tenures, the English parliament simply reduced the more burdensome to the milder type, and extended the scope of free and common socage. But socage tenure, as we have seen, involved in theory the personal subjection, for it was considered to arise from and rest upon the feudal idea of fealty, which is described by Chancellor Kent in the following manner:

"Fealty was regarded by the ancient law as the very essence and foundation of the feudal association. It could not on any account be dispensed with, remitted, or discharged, because it was the *vinculum commune*, the bond or cement of the whole feudal policy. Fealty was the same as *fidelitas*. It was an oath of fidelity to the lord; and, to use the words of Littleton, when a freeholder doth fealty to his lord, he shall lay his right hand upon a book, and shall say, 'Know ye this, my lord, that I shall be faithful and true unto you, and faith to you shall bear, for the lands which I claim to hold of you, and that I shall lawfully do to you the customs and services which I ought to do at the terms assigned; so help me God and His saints.' This oath of fealty everywhere followed the progress of the feudal system, and created all those interesting ties and obligations between the lord and his vassal, which, in the simplicity of the feudal ages, they considered to be their truest interest and greatest glory." (Kent's Com., Vol. 3, p. 511.)

As to fealty we may observe that although Blackstone says that "the statute of King Charles extirpated the whole and demolished both root and branches" of the military tenures, yet it did not touch the root principle of feudalism, but left intact the theory of feudal subjection and the attendant fealty.

Thus in outline was the old feudal tenure. Chancellor Kent, in considering the general effects of the feudal system, says: "Except in England, it annihilated the popular liberties of every nation in which it prevailed, and it has been the great effort of modern times

to check or subdue its claims, and recover the free enjoyment and independence of allodial estates." (Kent's Com., Vol. 3, p. 501.)

It may assist the discussion of feudalism to consider a comparison of allodial titles therewith in a jurisdiction where both feudal and allodial titles exist to-day side by side. Such a jurisdiction is Scotland, for although the Scottish land tenure for the most part is feudal, and in some respect more feudal than the English, yet there exist in the Orkney and Shetland Islands the remains of an ancient Teutonic allodial land law still vigorously flourishing. A recent Scottish case, *Smith v. Lerwick Harbour Trustees*, in the Court of Session (Fraser's Cases, Vol. 5, p. 680), discusses this comparison.

The case of *Smith v. Lerwick Harbour Trustees* deals with allodial or udal titles in the Shetland Islands in regard to a piece of shore property as to which the court held that the possession proved was not "of such a character as would have been requisite to support a conveyance" thereof "by a subject-superior under feudal titles." The Lord President in his opinion said: "The first important question is whether the tenure of the piece of ground in question was udal or feudal at the time when the disposition . . . was granted. If the tenure was then feudal, the presumption would be that the property in the foreshore down to low-water mark was vested in the Crown, subject to public uses, and that no proprietary right to it could be acquired except by a conveyance following immediately, or mediately, from the Crown. This would result from the view that according to the feudal system, the whole territory of the country was originally vested in property in the sovereign, and that it is consequently incumbent on a subject claiming a proprietary right in the shore to produce a title to it following directly or indirectly from the sovereign." After showing the absence of sufficient possession for prescription, the Lord President continues: "I understand, however, that the parties are agreed that there is no evidence that the foreshore in question had ever come to be held under feudal tenure, and that it remained, so far as proprietary right is concerned, subject to the laws and usages of udal tenure. I think this view is in accordance with the authorities which were referred to, and that the question comes to be, what are the rules and incidents of udal tenure applicable to the circumstances of the case? Now I understand the first of these to be that

the right to the territory of the country is not originally vested in the Crown, but belongs to subjects who can prove that they have had adequate possession of it to establish a right to it apart from written title, or who can show a written title to it after it has come to be the subject of conveyance by written title. Now, as the piece of foreshore in question has been held subject to written and recorded titles, at least, from the year 1819, I think that a progress of titles thus extending to a much longer period than that of prescription is sufficient to establish a valid right of property in the holder of the titles. It may be that the right is subject to certain public uses, such as navigation, passage, and the like, in so far as the ground is below high-water mark, but in so far as the right of property in it is concerned, it seems to me that the titles are, *prima facie*, sufficient to establish a valid right." The allodial title was, therefore, held sufficient.

Lord Kinnear, in his concurring opinion, after considering the effect of enclosing the foreshore and converting it into dry ground, said: "If it be assumed that the Crown has an antecedent right of property in the foreshore, I do not follow the reasoning by which it is supposed that such right of property is lost as soon as the tide ceases to flow over the ground. There are Crown rights, no doubt, affecting the foreshore which may not affect land from which the sea has been effectually shut out, but they are not rights of property, and I cannot admit that a right of property in one part of the *solum* of the country may be lost or acquired by other methods than those which regulate the acquisition or loss of property in any other part. . . . The whole difficulty in this part of the discussion seems to me to arise from a confusion, which, according to Sir Henry Maine, is incidental to the feudal system, between two different things, sovereignty and property in the Crown. But in our law, it is now established, these two ideas are perfectly separate and distinct. It is familiar and elementary doctrine that the Crown, if it has not granted it out, has a right of property in the foreshore which may be alienated, and also a right of sovereignty as guardian of the public interests for navigation, fishing, and other public uses which cannot be alienated. But it is only with the first of these rights that we have any concern in this action. The only question is whether the piece of ground described in the summons is or is not the property of the pursuer;

and a decision in his favor will not in any way interfere with the public uses, the protection of which is an inalienable right of the Crown. I take it to be well settled that in Scotland, where land rights are feudal, when a subject has acquired by Crown grant the absolute property of the seashore, the Crown will 'still retain,' as Lord Moncreiff puts it, . . . 'a supreme title over it for protecting all the rights and purposes of navigation, great or small,' and possibly also for protecting such other public uses as may be established by long possession. We are concerned in this case, therefore, with a question of private right, and with no question of public uses whatever. Nobody has suggested that as regards these the Crown right is not the same in Shetland as on any other part of the seacoast of Scotland. But whatever it be, it will not be prejudiced by anything we decide in this action.

"The whole question, then, seems to me to depend upon whether the rights of property in land in the Shetland Isles is governed by the feudal system, and I cannot see any ground in reason or authority for distinguishing in this respect between the foreshore and the rest of the soil. . . . On the main question, I do not think it possible to doubt that the land law of Shetland is allodial and not feudal. . . . But if the land right is allodial, it is certain that in that system the fundamental doctrine of the feudal system as to the Crown right of property has no place. In the feudal system the king is the original lord of the land, and every right of property in land issues mediately or immediately from him. That is the theoretical basis of our whole system of land rights in Scotland. But the king or overlord has no such radical right of property in allodial land. The right of the private owner is not to hold of and under a superior. His right of property is *dominium* in the sense of the Roman law. The king is sovereign, but he is not the universal landlord."<sup>4</sup>

It appears, therefore, that allodial land may be and in fact is subject to some supreme public uses which exist irrespective of feudal or allodial titles. The legislature may suspend these uses in whole or in part or modify the application of them in special instances, but they cannot be alienated except as an alienation of sovereignty, and an abrogation of them would be in effect to make

<sup>4</sup>For a further discussion of the feudal tenures, see Cadwalader's Treatise on the Law of Ground Rents in Pennsylvania.

each landowner a little king. They are, therefore, legally not property in the sense that they can be transferred, but are held in trust for the public benefit. This appears also in the Chicago Lake Front case (146 U. S. Reports, p. 487) and in the Massachusetts case of *Commonwealth v. Alger* (7 Cushing, p. 53) in regard to public rights of navigation. Their exact limitations may be difficult to determine, but that these public uses must exist appears from the fact that even an allodial title must originate in an "adequate possession," and what that possession shall be and how it shall operate to determine a particular piece of land with definite boundaries must depend upon the artificial rules or customs of the law. The artificial title thus created must be subject to the rules of the artifice by which it exists. We may, however, go further and say that these public uses or sovereignty rights, though not legally property, are yet economically proprietary interests, for they involve and assert a beneficial voice in the disposition or management of the subject matter and, so far as they operate in a particular case, they lessen the field of the beneficial enjoyment of the owner of the land affected. They may be compared with "*servitudes*," which have been defined as "certain portions or fragments of the right of ownership, separated from the rest, and enjoyed by persons other than the owner of the thing itself." (Hammond's Sanders' *Justinian*, lib. 2, tit. 2, p. 186.) They may for convenience be called "public servitudes." They are often of greater extent than mere private servitudes, but are economically of an analogous nature in their effect by lessening the usable value of the private property. They are further to be distinguished from mere feudal reversionary rights in that they affect all kinds of land titles, and do not depend upon the personal tie of the feudal relation.

The personal subjection of the feudal tenure or the assertion of a proprietary interest by the superior over the inferior, as the system was at length developed, was the starting point not merely of the harmless though complicated series of reversions and estates, but of the manifold burdens and abuses of the feudal tenure. Although the feudal theory supposed that the tie between lord and man was mutual, so that, as Bracton says, the lord owed as much to the tenant as the tenant to the lord, except in reverence, yet the inevitable tendency of such a relation was toward lessening or ignoring the duties of the lord and changing the position of the

vassal from a supposed voluntary service into a hard and fast legal servitude, a servitude of the person rather than of the thing. Chancellor Kent describes the result when he says (Kent's Com., Vol. 4, p. 443): "The whole feudal establishment proved itself eventually to be inconsistent with a civilized and pacific state of society; and wherever freedom, commerce, and the arts penetrated and shed their benign influence, the feudal fabric was gradually undermined, and all its proud and stately columns were successively prostrated in the dust." To such a pass did a system come which was originally founded upon mutual helpfulness that the history of centuries has been largely, and to some extent still is, occupied with efforts to remove the evils grown therefrom, but if we confine our efforts merely to chance effects and ignore the fundamental cause, we shall in the end merely exchange the graded subjection and qualified freedom of feudalism for the universal and unqualified subjection of the Roman Empire, and the history of ages will stand for naught.

### CHAPTER III

#### LANDED PROPERTY IN RELATION TO TAXATION

By what justification does a government collect revenue from or on account of the private lands within its jurisdiction? Blackstone (Book 2, Chapter 5) regards the English land tax as derived from the feudal escuage or pecuniary composition for the ancient knight-service in the military tenures. Inasmuch, however, as escuage was one of the ancient burdens abolished in the reign of Charles II by the act reducing military tenures to socage, the land tax cannot be taken as identical with escuage, but rather as a broader resource in substitution therefor.

There was, however, one element in the ancient knight-service strictly analogous to an efficient system of taxation. That element was the uncertainty of amount required from year to year. It was this uncertainty that in feudal conception was considered as giving greater dignity to the military tenure, perhaps as more perfectly identifying the landholder with the interests of the sovereign. On this point of uncertainty Blackstone says: "Since, therefore, escuage differed from knight-service in nothing, but as a compensation differs from actual service, knight-service is frequently confounded with it. . . . But as the actual service was uncertain, and depended upon emergencies, so it was necessary that this pecuniary compensation should be equally uncertain, and depend on the assessments of the legislature suited to those emergencies. For had the escuage been a settled, invariable sum, payable at certain times, it had been neither more nor less than a mere pecuniary rent; and the tenure, instead of knight-service, would have then been of another kind, called socage." (Blackstone, Book 2, Chapter 5.) But as escuage or scutage was chargeable only for lands held in knight-service, it was in itself only a limited resource, and accordingly there were other taxes.

"Of the same nature with scutages upon knights fees were the assessments of hydage upon all other lands, and of talliage upon

cities and burghs. But they all gradually fell into disuse, upon the introduction of subsidies, about the time of King Richard II and King Henry IV. These were a tax, not immediately imposed upon property, but upon persons in respect of their reputed estates." (Blackstone, Book 1, Chapter 8.)

In this last quoted passage Blackstone touches upon the fundamental question of land taxation, for the justification of such taxation must rest either on some relation between the government and the owner of the land on account of the ownership, or on some relation of the government to the land itself.

One theory would be to say, for instance, that the landholder by holding the land brings himself under a personal bond to serve the state with periodic payments of money of uncertain amount. But this is in effect the reassertion of the feudal tenure and would logically exclude the claim of taxation in the case of allodial lands. The Constitution of the State of New York, in Article 1, Sections 10, 11 and 12, declares all land titles in that state to be allodial, while the laws of New York provide for land taxation.

Constitution of New York, adopted September 28, 1894, Article 1, Section 10. The people of this state, in their right of sovereignty, are deemed to possess the original and ultimate property in and to all lands within the jurisdiction of the state; and all lands the title to which shall fail, from a defect of heirs, shall revert or escheat to the people.

Section 11. All feudal tenures of every description, with all their incidents, are declared to be abolished, saving, however, all rents and services certain which at any time heretofore have been lawfully created or reserved.

Section 12. All lands within this state are declared to be allodial, so that, subject only to the liability to escheat, the entire and absolute property is vested in the owners, according to the nature of their respective estates.

The statutes of Connecticut declare for allodial titles in the following provision: "Every proprietor in fee simple of lands has an absolute and direct dominion and property in the same" (General Statutes of Connecticut of 1902, Section 4025). The laws of Connecticut also provide for land taxation. These two states are not peculiar in asserting on the one hand the principle of allodial titles, and on the other hand the claim of taxation. Shall we say

that these two claims are mutually inconsistent? That would be a lame result, and we must declare that the theory of feudal tenure, however it may account for the practices of taxation in a country confessedly or formerly feudal, is not broad enough to serve as a basis for the principles of taxation in a country professedly allodial.

Perhaps some one may urge that the landholder holds his land only in trust to respond to the public claims. But how arises the trust? Is it by the external and self-sufficient decree of the law? Then one voice of the law takes away what another voice declares to be a man's own, and the two voices conflict. Or shall we say that, though the man owns the land, the government owns the man? Then we reach the troublesome result that that government which is entitled to collect a tax for a particular piece of land is not the government where the land lies, but the government where the owner happens to reside or be a citizen. It is needless, however, to show the frequency with which governments assert the claim to taxes for the lands in the jurisdiction regardless of the residence or citizenship of the owner.

We shall avoid all of these difficulties if we can find a fundamental interest in the land as a basis for the claim to taxes therefrom. Land may be described as the raw material of sovereignty, that is, a body of men cannot be called a sovereign state unless it exerts authority over some determinate territory. Therefore, any private interest in land in a civilized community must be concurrent with such public rights as are essential to the existence of the community. Although the right to use land generally may be called a natural right of mankind, yet the private right to the use of any particular piece or portion of land must depend upon the provisions of positive law to identify the boundaries and the corporeal and incorporeal extent of the particular entity to be enjoyed.

It follows that an allodial title is subject to such public rights as the nature and situation of the property naturally imply, for instance, rights of navigation in the case of foreshore property. These public rights by analogy to certain private rights may be called public servitudes, which are economically of a proprietary nature, because although not legally property yet they result in diverting a portion of the proprietary utility from the owner of the land. Now, if the existence of a private land title must rest upon

the positive law of some established political community, and if the existence of the community depends on maintaining jurisdiction over a certain territory, then it is proper to assert that each particular parcel of private land in the territory is charged with a real burden to maintain the government. Such a burden may be classed as a public servitude, or a part of the *ius publicum* as distinguished from the *ius privatum*, a distinction long well recognized in the feudal land law of England. The French Civil Code (Section 637) defines a servitude as "A charge imposed on a heritage for the use and utility of a heritage belonging to another proprietor."<sup>5</sup> If we treat the sovereignty rights of a government throughout its territory as a "heritage" the definition of the code exactly describes the claim of taxation against landed property. Nor is this a novel use of the term. In the case of Samuel G. Cochran against Curtis Guild, in 1870 (106 Mass. 29), the counsel for the defendant, though denying liability under the words of a particular covenant in question, said: "The liability to the lien of taxation is a perpetual servitude which the estate owes to the public, but this liability is not within the meaning of the covenant."

The French code (Section 639) further says that a servitude may result "from the natural situation of the premises." This seems to imply that the nature and character of a particular property may create a servitude over it. The public servitude of taxation arises from the nature and situation of property in land. Whenever, either by grant or by such possession as the law considers sufficient, a particular parcel of land with ascertainable boundaries and appurtenances is individualized from the rest of the surface of the earth as a private heritage, there arises coextensive with it this public servitude of a perpetual nature. If the land afterward comes into public ownership the public servitude is merged, blended, or confused with the public title, for it is needless to assert a right in the nature of a servitude when one has the heritage itself. If again the land is granted in private ownership the public servitude again emerges coextensive with the private right. This is usually expressed in American laws by saying that the lands of the nation, the state or the municipality are "exempt from taxation," but logically it can be nothing more than an indirect

<sup>5</sup>"Une servitude est une charge imposée sur un héritage pour l'usage et l'utilité d'un héritage appartenant à un autre propriétaire."

way of saying that the government in such cases does not need to rely on its general public servitude, but has complete possession by title.

We may, therefore, classify the possible theories of land taxation under two general heads, personal and impersonal; and we may further divide the personal class into two subdivisions. One of these subdivisions would regard the tax as in the nature of a rent-service paid for holding the land either mediately or immediately of the state. This may be called the feudalistic view, by which the ideas of property and jurisdiction are more or less commingled. By this view the king or the state is sovereign because it is the owner of the land or has retained a reversionary estate in the land, so that all private titles to land must, therefore, be held of the state by personal service, and a proprietary claim is asserted over the landholder for the feudal service by virtue of the tenure. The second subdivision of the personal class would treat the tax as the personal duty of a servant to a master, and would regard the private title as distinct from the sovereignty even when granted by the sovereign, but as held in trust by virtue of an implied interest in the state over the person of the owner. This may be called the nationalistic view and seems dependent on some doctrine of personal status or a theory that a man's property rights flow from the status conferred on him by the nation or state of which he is a citizen or subject, so that conversely the state has a proprietary claim over the man. In this view the king or the state is sovereign, not as land owner, but as having a special property in the citizens.

In contradistinction to both of these personal theories the impersonal theory would regard the tax as resting neither on a feudal holding of the land nor a national subjection of the person, but on the existence of a fundamental public interest concurrent with the private title in the land by virtue of the essential nature of landed property. By this view the king or the state is sovereign, not as proprietor of either land or people, but as the instrument of necessary public functions within a specified territory. This view combines elements resembling both of the personal theories, while rejecting each of those theories as a whole. It resembles the feudalistic in that it refers the state to a particular territory. It resembles the nationalistic in that it regards the state as representing a particular community or nation.

These several theories of land taxation are reflected in various methods employed or authorized by the laws of different states for the enforcement or collection of the tax. Thus, under a personal theory, the tax is charged to some particular person, as owner, occupant, or tenant, as the case may be, and is then enforced as a personal liability against that person by the seizure of his goods, the arrest of his body, or by a general action at law. On the other hand, under the impersonal theory, the tax is charged to a particular piece of landed property, as an entity against which the tax lies, and is enforced by the physical seizure of the land or by a symbolical seizure through the taking or sale of the private title by the public authorities in assertion of the public servitude in the land.

The difference between a personal assessment *for* landed property and an impersonal assessment *on* landed property is well set forth in the case of *Haight v. The Mayor, etc.*, of the City of New York (99 N. Y. Reports, p. 280), in which the court said: "We are of opinion that in the City of New York it is not essential to the validity of a tax upon land, that the name of the owner should be inserted in the assessment list. The tax may be assessed directly upon the land, properly describing it, and the only effect of omitting to insert the name of the owner or of inserting the name of one who is not the owner, is to deprive the city of the right to collect the tax from the owner personally or by distress of goods and chattels, etc., and to confine its remedy for the collection of the tax to the enforcement of its lien therefor upon the land assessed." The court calls attention to the use of a different method in other parts of the state, in which the inhabitants of each town are assessed for their real estate, "and the inhabitant so taxed is personally liable." The tax thus assessed is declared to be a lien on the land, but "unless land is assessed to the real owner or occupant by his name, the tax is void." In the City of New York, says the court, the name of the owner or occupant was declared by statute not essential to the validity of the tax against the land. The theory of the personal assessment of taxes for lands is stated by the court in the case of *Hagner v. Hall* (10 Appellate Division Reports of N. Y., page 585). "Until the year 1850 the tax in the case of lands of residents could never become a lien on the land. The sole method of enforcing it was from the personal property of the

owner. If the tax of one year was unpaid, it was added to the tax of the next year and attempted to be collected with it out of personal property. Thus taxes in default became cumulative, but not charged on the land. Taxes in the case of lands of non-resident owners were charges on the land and created no personal liability against the owner. In 1850, and afterwards in 1855, the system as to unpaid taxes of residents was changed. When the tax was in default, the next year it is to be levied and returned in the same manner as is the case with lands of non-resident owners. Still, in my opinion, this has not changed the effect of the proceeding. It is essentially a proceeding to create a debt against an individual. The individual is the primary debtor, and the land is only in the nature of surety liable for his default."

The language of the court in the last case quoted in describing the personal method of assessment, as a proceeding to create a debt against a particular individual, shows the true nature of the personal theory as the assertion of a proprietary claim over the owner, for the legal creation of a debt by the spontaneous action of the intending creditor without the special contract or wrongful act of the intended debtor is economically, whatever the law may call it, the assertion of a proprietary claim over a person. It is curious to observe the coexistence of both these theories and methods of enforcement in the same state. New York is not peculiar in this, but the interesting query suggests itself whether the assertion of the personal theory rests on a feudalistic or a nationalistic conception. In view of the distinct declaration of the New York constitution against feudal tenures the maintenance of the personal theory would doubtless at the present time be considered nationalistic, but the practice is clearly a survival from the colonial times and is perhaps or probably derived from the feudalistic conceptions on which the English land law is founded. This is further suggested by the history of assessment for lands in Massachusetts, as described in the case of *Richardson v. Boston* (148 Mass. Reports, page 508).

In that case Judge Holmes said: "By the older statutes, the general remedy for refusal to pay any rate or tax was distress, and, in case of failure to find sufficient chattels for the levy, arrest. It applied to taxes on persons in respect of their land as plainly as to other taxes." The court cites colonial laws of 1672, provincial laws of various years from 1692 to 1757, and state statutes, and

summarizes their effects: "The power to sell real estate appears in Prov. Laws, 1731-32, Chapter 9, as the only available means for collecting taxes upon unimproved lands belonging to non-resident proprietors." . . . "It is then extended to the case of removing owners (St. 1785, Chapter 70, Section 6), and to some cases of taxes assessed to persons in possession, but not owners (Section 15). But the last cited section makes it plain that the remedies by distress and arrest still apply to taxes for land, and are regarded as the general remedies." The "Revised Statutes" of Massachusetts were issued in 1836. In these, the court says, "the lien for taxes on real estate has become general, but again it is made plain that the lien does not exclude the remedies formerly available." The court refers particularly to the section of the law which relates to the land of a non-resident owner and provides that "the collector may, at his election, collect such tax of the said owner, in like manner as in the case of a resident owner, or he may collect the same by the sale of such real estate." The court considers "that the giving of a lien upon real estate did not displace the earlier remedies of distress and arrest," in view of the general wording of the statutes. "We, therefore, are of opinion, as we have said, that owners of real estate, properly taxed for it, are personally liable for the tax."

Thus we see in both these states, New York and Massachusetts, a personal theory of land taxation surviving from colonial times. In each state the theory breaks down in the case of lands of non-resident owners, and is supplemented by a tentative use of an impersonal remedy, which is gradually extended to general application, but without the abandonment of the personal theory. Yet if the impersonal theory is the only satisfactory reliance for the public rights of the state in the last analysis, so also it is entirely sufficient when coupled with effective provisions for its enforcement, and its definite adoption and use should logically exclude any attempt at personal enforcement, for the land is fixed and ascertainable unless washed away in a flood, and there seems no just reason for taxing a man for land which he has lost. The fact that a personal theory is still asserted in spite of the adoption of an impersonal remedy is doubtless due to the persistence of ancient practices, and the fact that the practice of personal enforcement comes down from colonial

times seems to show its essentially feudal origin in the American states.<sup>6</sup>

This feudalistic resemblance appears in the laws of Maine in the Revised Statutes of 1903, Chapter 10, Section 30, by the following provision as to liability for land taxes: "In all suits to collect a tax on real estate, if it appears that at the date of the list on which such tax was made, the record title to the real estate listed was in the defendant, he shall not deny his title thereto: *provided, however*, if any owner of real estate who has conveyed the same, shall forthwith file a copy of the description as given in his deed, with the date thereof and the name and residence of his grantee, in the registry of deeds where such deed should be recorded, he shall be free from any liability under this section."

Compare the foregoing Maine law with the following passage from the Scottish Conveyancing Act of 1874 (Section 4, paragraph 2) in regard to the feu-duty or feudal rent service of Scotland: "Every proprietor who is at the commencement of this act or thereafter shall be duly infest in the lands shall be deemed and held to be, as at the date of the registration of such infestment in the appropriate register of sasines, duly entered with the nearest superior whose estate of superiority in such lands would according to the law existing prior to the commencement of this act have been not defeasible at the will of the proprietor so infest, . . . and provided further, that notwithstanding such implied entry, the proprietor last entered in the lands, and his heirs and representatives, shall continue personally liable to the superior for payment of the whole feu-duties affecting the said lands, and for performance of

<sup>6</sup>Dr. Rudolf Kobatsch, of Vienna, Professor at the Imperial and Royal Consular Academy, in his recent work, "Internationale Wirtschaftspolitik," calls attention to a similar shifting of emphasis from the personal to the impersonal in international commerce, and in a note at page 9 of his book quotes Gustav Schmoller to the following effect: "As the wares in the older time were brought to market by the owner or trader personally, so the permission or prohibition of all foreign competition consisted at that time in the ordinances upon the entrance, the residence, the rights and the trading licenses of foreigners. Slowly, and generally from the sixteenth to the eighteenth century, since there arose independent posts, a great merchant marine, and a commission business, did the system of personal permission to foreigners commercially yield to the system of permission to their goods. The more humane international law then left the stranger generally without thought to enter or leave the civilized states, which then commercially concentrated their efforts on allowing or forbidding the export and import of wares." Dr. Kobatsch's work is an exhaustive discussion for the explanation of international economics upon an evolutionary basis from the starting point of Herbert Spencer's "Social Statics."

the whole obligations of the feu, until notice of the change of ownership of the feu shall have been given to the superior; . . . ." By the strict original feudal conception an estate could not be transferred to a new owner without the consent of the lord of the fee or the superior as he is called in Scotland. The conveyancing act while allowing a voluntary change of ownership holds the previous owner personally for the feudal services until notice is given to the superior. The statute of Maine, as above quoted, recognizes the right of private conveyance, but holds the prior owner for taxes unless notice is given to the public authorities by a record, as if the theory of the tax were feudal service for which some one must be personally bound to the authorities as to a feudal superior.

Such an idea of personal bondage, however, is totally needless with an impersonal conception of the tax as resting on a fundamental public servitude in the land, for such an interest is plenary and needs no auxiliary personal liability. Or if we base it on a nationalistic view the personal liability is not only needless but positively harmful as impliedly limiting the right of the state, as a mere attaching creditor, to the specific interests of particular partial owners, when the property is involved in different degrees of ownership. Nor is a personal theory necessary under the American constitution, for the Supreme Court of the United States has recognized the sufficiency of an impersonal system of land taxes in the case of *Witherspoon v. Duncan* (4 Wallace, page 210). In that case, at page 217, Mr. Justice Davis said: "Arkansas has the right to determine the manner of levying and collecting taxes, and can declare that the particular tract of land shall be chargeable with the taxes, no matter who is the owner, or in whose name it is assessed and advertised, and that an erroneous assessment does not vitiate a sale for taxes."

The exclusive sufficiency of an impersonal theory in analogy to a servitude in the land is further illustrated by the French Civil Code in the following sections having regard to the enjoyment of servitudes:

Section 697. "He to whom is due a servitude has the right to make all the works necessary to use it and to preserve it."

Section 698. "These works are at his costs, and not at those of the proprietor of the premises subjected, unless the title of establishment of the servitude says the contrary."

Section 699. "In the case even where the proprietor of the premises subjected is charged by the title to make at his costs the works necessary for the use or the preservation of the servitude, he can always free himself from the charge, by abandoning the subjected premises to the proprietor of the premises to which the servitude is due."<sup>7</sup>

The public servitude of taxation on land is somewhat analogous to that interest which the English law calls a "*profit à prendre*," in that it consists in extracting a periodic benefit from the land. In economic effect it amounts to a perpetual mortgage on the premises for fluctuating amounts, or perhaps more exactly a right to create a series of mortgages from time to time. It is true that the usual private mortgage arises in connection with a personal claim, but the charge on the land and the personal claim are two entirely independent resources. There is nothing in the essential nature of the case to prevent the creation or existence of the charge on the land without any personal obligation, and in the vast majority of cases it is to the security of the charge rather than to any personal liability that the mortgagee looks. In the case of *Cook v. Johnson*, in the Supreme Judicial Court of Massachusetts (165 Mass. Reports, at page 247), Judge Morton for the court said: "It is well settled that there may be a mortgage without personal liability on the part of the mortgagor for the debt which the mortgage secures."

It is also possible for a person to purchase mortgaged premises without assuming any personal liability under the mortgage. The situation then of such a person toward the property is exactly the same as if the mortgage had been originally created merely as a charge on the land without any personal liability. The mortgagee may enforce his claim against the land and turn out the purchaser. The purchaser has the right to pay the claim and free the land if he wishes, but his only duty is passive, namely, not to interfere with the mortgagee. The essential justice of this distinction seems to be recognized by the French Civil Code in dealing with the case of a

<sup>7</sup>Section 697. Celui auquel est due une servitude a droit de faire tous les ouvrages nécessaires pour en user et pour la conserver.

Section 698. Ces ouvrages sont à ses frais, et non à ceux du propriétaire du fonds assujetti, à moins que le titre d'établissement de la servitude ne dise le contraire.

Section 699. Dans le cas même où le propriétaire du fonds assujetti est chargé par le titre de faire à ses frais les ouvrages nécessaires pour l'usage ou la conservation de la servitude, il peut toujours s'affranchir de la charge, en abandonnant le fonds assujetti au propriétaire du fonds auquel la servitude est due.

third person who has acquired mortgaged property without assuming liability for the debt, but who has not taken steps to clear the property of the burden. Section 2168 of the code says: "The third party in possession is held, in the same case, either to pay all the interest and the capital due, to whatever sum they may amount, or to relinquish the mortgaged property without any reserve." Section 2172 says: "As to relinquishment on account of a mortgage, it can be made by all third parties in possession who are not personally bound for the debt and who have the capacity to convey."<sup>8</sup>

Now this exactly represents the position of a landowner under a strictly impersonal system of land taxes. The government is perfectly protected, for, like a mortgagee, it has a prior claim on the property regardless of the accidental ownership. The owner has the right to protect his property by paying the tax, but, if for any reason he considers the tax greater than his interest in the property justifies, he has the right to relinquish the land, by suffering its seizure or sale by the public authorities, without incurring any other penalty than the loss of the land. Nor may the government justly ask for any remedy greater than the scope of its right. If its right in order to be secure must be founded on a real interest in the land, then its remedy to be just must be limited to the land.

The economic effect of a land tax as a perpetual mortgage or series of mortgages on the land is shown in the treatment of landed property as an investment. The economic value of a piece of land comprises its value for all purposes, both public and private, for which it is adapted or adaptable at a given time and place, but its effective value as an investment must allow for the burden of the public charges. This allowance amounts to a capitalization of the probable taxes at current rates of interest, so that after paying the tax the probable returns from the property will be a reasonable income for the investment. Thus the effective value is the residue of the economic value after deducting the estimated capitalized taxes. Or, to put it in another way, the purchaser discounts the burden of the tax and pays only the probable value of the private interest.

<sup>8</sup>Section 2168. *Le tiers détenteur est tenu dans le même cas ou de payer tous les intérêts et capitaux exigibles, à quelque somme qu'ils puissent monter, ou de délaisser l'immeuble hypothéqué sans aucune réserve.*

Section 2172. *Quant au délaissement par hypothèque, il peut être fait par tous les tiers détenteurs qui ne sont pas personnellement obligés à la dette, et qui ont la capacité d'alléner.*

Thus, from the view of an investment, the burden literally rests on the land and not on the owner, for, although the rate of taxation may increase by new public needs and thus increase the burden, yet that is only one of the contingencies whose risk the investor assumes by purchasing the land, and, on the other hand, there is the possibility often realized that the value of the private interest in a parcel may increase more than the rate of taxation, so that a mere increase in rate does not tell the whole story in any particular case. In like manner the rate may be lowered by public economy, but the private interest in a particular parcel may nevertheless depreciate in a greater degree, so that the effective value of the private interest may be affected by a change in the tax rate and also by causes entirely outside of the public interest. It follows that there is strictly no such thing as an "unearned increment." An increase which seems to be "unearned," because not caused by the labor of the owner, has really been earned by subjecting the investment to the chance of an *undeserved decrement*. Such an increase, called an "unearned increment," really benefits the public as well as the owner, for the value of the public servitude in the land increases as a public resource proportionately with the private interest.

From the fundamental priority of the public servitude it results that the burden may be apportioned upon the separate lands of the jurisdiction according to any reasonable basis having a relation to the value thereof. Thus it may be imposed according to the income-producing qualities, as the outcome of the land in its actual condition, or, on the other hand, according to the capital value of the premises. If income is selected as the basis, it may be either the gross income obtainable, or the balance left above expenses, according as seems advisable under the circumstances of the country in the view of the legislature. So long as it is a general rule and not an arbitrary one, it is within the scope of the public right. So, too, the legislature may select the estimated economic value of the premises as the basis, or, as is more usually attempted in America, may direct the use of the effective or salable value of the premises assessed. As the public interest is prior to all private interests in the premises, it might be more strictly logical to estimate the total economic value as the basis of assessment, but as this is practically never apparent in business dealings with the land, and as the effective value is the apparent value and at any given time and place

would hold an ascertainable relation to the economic value according to the tax rate, the usual American policy of treating the market value as the basis, is not open to substantial objection. That is, for instance, it is of small consequence whether we have a tax of \$15 at  $1\frac{1}{2}$  per cent for an assessment at a market value of \$1,000, or a tax of \$15 at 1 per cent for an assessment at an estimated economic value of \$1,500.

As between an income basis and a capital basis in the assessment of land taxes there is much to be said in favor of the capital basis in a country of peaceful industry, for if the public servitude is plenary, there is no necessary reason why the state should limit itself in its collections when the owner fails to use his property to best advantage, but this question may perhaps be regarded as a mere matter of policy under the circumstances of a given time and country. So, too, may be considered the question whether the value of buildings and other improvements should be included in the assessed value of landed property, or should be omitted in whole or in part. It may be, as the advocates of the so-called "single tax" assert, that it would be a public benefit to omit the value of buildings and throw a greater burden on vacant land. But as between the landholder and the government it is a very different question, and if the state chooses to pursue the policy of treating as land everything annexed to the land there is no injustice thereby to the owner, for he takes his land subject to the full measure of the public servitude against the land and whatever he chooses to transform legally into land by annexation to the premises. As before said, this may be a poor public policy, but it is not an encroachment on private right, for the owner can, and in fact will, refrain from making improvements, buildings and other structures until the probable increased rentals thereby produced shall offset the added burden incurred by reason of improvements.

On the contrary, it would be inconsistent with an impersonal theory resting on the idea of a public servitude in the land to assess a tax at a greater rate because the owner happens to own a large amount of other land also. It frequently happens that when several parcels, which together make up a unified tract, are brought into a single management, the value of the combination becomes greater than the combined values of the previous parts, because the whole can be used more advantageously. In such a case the union justifies

an increased assessment, but to increase the rate merely because the person who happens to be the owner happens also to own various other dislocated parcels beyond a certain fixed arbitrary value is to exceed the public servitude and to impose a burden which varies with the accident of ownership and in effect penalizes the owner apart from the land. If the concentration of the ownership of a large amount or value of land should become merely in itself a public disadvantage, the just remedy would be to take such land by eminent domain upon the payment of just compensation to the owner instead of depriving him of part of the normal benefit of his land by the imposition of a special burden upon the particular owner in addition to the general burden on the land.

But although under an impersonal system of assessment the government may not justly discriminate against the accidental person of ownership, so, on the other hand, the accidental owner may not justly complain of the tax on the ground that the object for which it is imposed violates some prejudice, desire or personal interest of such owner. It is not "his tax" but the land's tax under the impersonal view, and as the justification for the tax rests upon the direct public servitude in the land, so the government should not be prejudiced by the particular opinions of the person who happens to be the owner of the private interest. Such owner as a citizen or inhabitant may be entitled to a voice as to the public wisdom or justice of a certain course of expenditure, but as a landowner he has no particular right to dictate the expenditure of the particular sums collected from the particular premises of which he happens to be owner or occupant.

Accordingly, the private opinions, ecclesiastical or otherwise, held by the accidental owner or occupant as to the righteousness of a course of public policy cannot vitiate the public right to the tax from his premises. The public right is the same and, if the policy is injurious, the public wrong is the same, whether the private interest in the premises belongs to John Smith, who approves the policy, or John Brown, who disapproves. Thus, the question of public support to an established church is a question of vast public consequence, but its decision should be independent of the petty accidents of ownership in particular premises. So, too, the question of the method and management of public education is a matter of vital public importance, but the right of the government to maintain or supervise

education is independent of the opinions of particular owners as to the wisdom or justice of the policy. If a given policy is truly public in its nature, then the disagreement of any particular owner cannot invalidate the public servitude over his land. It is not *his money* which is being specifically applied, but the produce of the public servitude. On the other hand, as his sole duty under an impersonal system is *not to interfere* with the collection of a legal tax from the land itself, so under such a system there can be no such thing as "passive resistance," for passivity is his right and is not resistance.

In like manner the particular owner under an impersonal system may not justly claim that the particular sums which are collected from his premises shall be set apart and expended for the benefit of some especial class to which the owner belongs. For instance, the suggestion that has been made in some parts of the South that the school taxes should be apportioned between separate schools for white and colored children according to the race of the taxpayers would be utterly inconsistent with an impersonal system of assessing lands. The education or non-education of either white or colored persons should depend on the public interests involved and not on the accident of racial ownership in the lands from which the taxes may be derived. It is generally conceded that the justification of a school tax is not dependent on the fact whether or not the taxpayer has children, and no more should the apportionment of the proceeds depend on accidents of race.

The separateness of the public interest from the private interest in land appears further in the case of a piece of property owned by more than one person, either in common by fractional shares or by some combination of partial interests, such as leasehold, life estate, or conditional estate. In a strictly personal system it would be necessary to pursue these separate individual owners of interests for taxes of various proportions and to limit any attack on the land to the specific interest of the delinquent person. But if the right of the public is directly against the land involved, irrespective of the person of ownership, then its right is entire. It corresponds with the entire private interest, and is neither increased nor decreased by the fact that in some particular case that private interest may happen to be held by a group or series of persons. The tax is, therefore, entire as a charge prior to the whole private interest, and it is for the group of owners or persons interested to determine as they choose by private contract when they create their separate

interests how they wish to apportion the payment of the tax among themselves. Thus, they may own the property in equal shares and share the burdens equally, or they may create a priority among themselves. One person may own the property and may let it to a tenant who agrees to pay a stipulated rent and no more, or, if the parties prefer, the tenant may agree that the owner shall be certain of a fixed sum and that the tenant will pay the taxes in addition. In such a case the tenant's stipulated rental will probably be small enough so that on adding the taxes he will be paying about what he thinks is a fair compensation for the use of the land; whereas, if the tenant agrees to pay only a stipulated rental, the landlord will ordinarily demand proportionately more than when the tenant agrees to carry the taxes. The law may properly provide a rule to apply in case the parties are ambiguous or silent in the terms of their contract, but the question itself is immaterial to the public servitude in the land, and should be left entirely in the hands of the parties. If the government receives its money it has no interest in dictating as to the person who shall make the payment. Moreover, such a dictation would naturally result in forcing one party or the other to ask harder terms than he would otherwise be likely to accept, in order to offset the limitation of his freedom of contract.

The same principle would apply in any attempt to dictate an apportionment of taxes between the owner and the mortgagee. The mortgagee has a real but limited right in the premises, and in the ordinary case can derive no direct benefit beyond security in case of an increase of the value of the property. Accordingly, the usual object of the mortgagee is to obtain a fixed, certain, and irreducible right, both as to the principal and interest of his investment, with the condition that the owner who gets all the benefit of any increase in value shall carry all the burdens of the property, including taxes. In thus seeking assurance against depreciation of his funds as the price of a fixed interest charge, the mortgagee is able to offer the best terms to the borrower, but if the law forbids the making of such a contract of security against the taxes, it becomes necessary to make the price of the loan more severe to offset the added contingency. Any attempt of the law to dictate such an apportionment of taxes is injurious to all private parties concerned, and is in excess of the public interest involved.

Even more reprehensible is the policy frequently pursued in collecting a full tax for the premises and an additional tax for the

mortgage, for it ought to be evident that the sum total of the value of the private interests in a piece of property is not increased by placing a mortgage thereon, and, therefore, the value of the public interests in the premises is not increased by the process. The experience of several states, notably New York recently, in attempting to collect an additional tax for the mortgage on real estate fully taxed, seems to show that so far as such a policy is effective it tends to increase the interest charge to be borne by the borrower. In 1891 Governor William E. Russell, of Massachusetts, in a message to the legislature, said: "By abolishing the tax formerly imposed upon mortgages, our state has already relieved borrowers of one unjust and oppressive burden, to the great advantage of the public." But many, perhaps most, states still pursue the older policy, on the legal theory that a mortgage is personal property and is a distinct thing from the real estate. Yet, however the law may classify a mortgage, in economic character it is representative of a limited priority in the land which sustains its value and which likewise sustains proportionately the tax resting on that land by virtue of the public servitude therein. The contract of mortgage is not the creating of a new species of economic property, but the creating of a new legal interest in preexisting economic property. The impersonal theory of a public servitude in land attaches itself to the sum total of private interests as an economic whole and not to the separate personal interests distributively.

Many if not all of the difficulties in practice and theory in dealing with land taxation arise from a failure to recognize the existence of the fundamental public servitude as a real public interest in land, or from a failure to appreciate or observe the scope of that servitude, both as a basis of public right and a guaranty of private right in the land. The economic function of land is broad enough to include and fully support concurrently both a public interest or servitude, and a private interest or title in land. In assertion of the public servitude most of the American states have laws for the sale of lands for the non-payment of taxes, but in many instances these laws are so complicated with the survivals of a feudally personal theory that their operation is much hampered with multiplicity of technical details. It would simplify the public revenue and likewise conserve private rights to recognize fully both in theory and practice the public servitude as the sole and sufficient justification for land taxation.

## CHAPTER IV

### PERSONAL PROPERTY IN RELATION TO TAXATION

In the assessment of landed property the immobility of the land gives the state a real security for the collection of the tax as a charge on the premises, so that the public servitude in the land is not only the sole justification, but furnishes the sufficient remedy, and the tax may, therefore, be said to be literally "on the land." In dealing with personal property a distinction at once appears by reason of the mobility of some kinds or intangibility of other kinds of possessions or rights which are classified as personal or movable property. In the vast majority of cases of such kinds of property it is practically impossible for the public officials to place their hands on tangible movables, or to discover the existence of intangible rights, so that strictly it is extremely difficult, and in most cases absolutely impossible, to place a tax literally "on" such property, and the only alternative is to place the tax *on* some person *on account of* such property. Such person is usually one who is supposed to be the owner, possessor, or controller of such property, and such a tax is commonly said to be "on personal property," but in contemplation of strict accuracy the term should be discriminated as a tax "*on account of* personal property."

Now the legal assessment of a person for, on account of, or in respect to, alleged personal property is the creating of a legal charge against that person, and the creating of a legal charge against a person for the benefit of and at the instance of the state with neither such person's special contract nor wrongful act is the assertion of a proprietary claim over such person. It follows, therefore, that such a personal assessment for personal property must depend for its justification on the existence of some antecedent public right which the person assessed is wrongfully withholding or threatening to injure and on the reasonable necessity of that method of protecting the alleged right. Such a right, if and when it exists, must, in order to be sufficient, be an interest in the subject-matter on account

of which the tax is levied, and not merely a claim to dispose of the person or his effects at the spontaneous instance of the state, for such a claim would be in itself proprietary and could furnish no further justification for a personal remedy than is offered in the assertion of a proprietary claim over the person. The inquiry, therefore, resolves itself into the discussion whether the mobility or intangibility of personal property is fundamental or merely an incident unfortunate for the state and requiring special remedies, that is to say, whether there is some fundamental public interest arising from the nature of the subject-matter in any case, as the public servitude in land may be said to result from the nature of landed property.

The simplest form of personal property occurs in the case of agricultural products. For these there are two economic elements essential to production, namely, the use of a piece of land and the employment of human labor. We need not discuss the complicated question of the division of product between employer and employed, but take the simplest case of all, that is, the case in which the producer is his own laborer. In such a case the two essential elements are reduced to only one for which payment must be made, namely, the use of the land. This payment, however, must be made in all cases, even when the producer is the owner of the land, for in that case he must be treated as apportioning the product partly to pay for his investment in the land and partly for his own labor. Now the economic function of the land includes not merely the private interest therein, but also the public interest or servitude in the premises. These two interests make up the total economic value of the land, and in making economic payment for the use of the land such payment must cover the use of all interests in the land. As the public servitude is the prior interest economically, so the payment for the use of the land must be taken as applying primarily to the use of the public servitude, or, in other words, to the discharge of the periodic tax on the premises. When this is discharged for any given period the balance of the payment for the use of the land naturally belongs to the owner of the private interest. The private landlord holds his title charged with the public servitude, and to protect his interest he must satisfy the periodic instalment of that charge. Thus, although he collects in effect the whole value of the use of the land if his rental is successfully estimated, yet he

must necessarily use a part of it to reimburse himself for the periodic instalment of the public charge. Since both the public interest and the private interest in the land have been fully served by the rental for the use of the land, who has any better right to the product than the producer who has furnished the labor for the planting, cultivating, or harvesting of the crop? As King Leopold says in his open letter promulgating the reform statutes for the Kongo State: "There is no more legitimate or honorable right than that of reaping the fruit of one's own labor." We may doubtless add that there is no more incontestable right.

A similar situation presents itself in the case of mineral products. Here, too, we have the two essential elements, the use of a piece of land and the employment of human labor. It may perhaps be said that in the case of mines the taking of the product is the taking of a part of the soil itself. This is true, and may perhaps be a reason for retaining mineral lands in public control when not already granted out, as President Roosevelt has recently suggested, but its application to private mines relates to the determination of the value of the public interest in premises of that character, and can have no bearing on the rightfulness of the claim of the producer to the residue of the product after paying for the use of all the interests in the land. Since full payment must be made for the use of the land, the producer has as good a right to the product in the case of minerals as in the case of vegetable crops.

The case is the same with animals and animal products. Here again we have the use of a piece of land, as for the dwelling or sustenance of the beasts, and the employment of human labor for their care or for the collection of the product. Again the product belongs to the producer by the same principles as before, and in part must reimburse him for his expenditure in paying for the use of the land. In the case of wild animals this element sometimes becomes reduced to the vanishing point, but the element of human labor remains, and a similar situation seems to exist in the fishing industry until the product is brought to land.

In all these methods of producing raw material under the simplest conditions the element of human labor is constantly present as the justification of the producer's reward, and the use of the land is simply part of his expense of production at a given time and place. But in most instances of production there is a third factor

present, namely, the use of tools or implements for applying human labor to the task in hand. This brings us to a further class of products, namely, manufactured articles, for tools and implements of industry are for the most part examples of manufacturing arts, that is, they are not merely raw materials put to the production of further raw materials, but are made from raw materials by the application of further human skill or labor to alter, fashion, or combine those materials into adaptability for certain special uses for which the raw materials are insufficient in themselves. Now all manufactured products are not tools or implements for the fashioning of other products. Many manufactured products are made for uses quite apart from further production and some are made merely for the pleasure of their enjoyment, but the principle to be sought will be the same for all kinds of manufactured goods, as to the payment for the production and the right to the product.

As the making of any manufactured product involves the use of human labor, there seems no reason to discriminate the right of the producer to the product in that kind of case from his right to the product in the case of raw materials. The production of the simplest kind of manufactured articles differs from the production of raw materials only in the kind and quality of human labor required. The use of the land necessary for a situation for that labor is the same element in either case, and the price of its use is likewise a part of the cost of production. The product, therefore, belongs to the producer, who must necessarily pay the cost of production in order to utilize the chance to produce. If now the result of such production is a tool or implement which the producer thereupon uses for the purpose of further production of other products for which tools are required, as the producer is justly entitled to the use of the tool, by virtue of the human labor involved in its making, so the introduction of tools into the process of production does not vitiate the right of the producer to the manufactured product, and does not add any new ultimate element to the simple elements of land and labor, for the tools themselves are the product of labor and may be called packages of conserved labor. Thus the factor introduced by tools or implements into production is simply the use of the original labor in the second, third, or further degree, and the prime elements of production, land and labor, remain the same.

In all this we are assuming the simplest possible case, in which the producer performs his own labor and uses tools of his own construction. So far the only public interest that appears is the public servitude in the land used in the production, and this public interest appears to be fully served by the payment for the use of the land, since out of that payment a part or an equivalent of part must be used to discharge the periodic burden of the public servitude on the land. This payment is part of the cost of production, and the state's portion comes by reason of the public interest in the land and not on account of any interest in the product. The product justly belongs to the producer. He may necessarily be obliged to use part of it for the discharge of his obligations incurred in the production, but so much of it as he is not thus obliged to use belongs totally to him. Now, if the state, which has received full compensation for the periodic burden of the public servitude in the land, seizes a part of the product which remains after the discharge of all costs of production, it is denying this right of the producer to the product of his toil, or else it is asserting a claim to dispose of the toil of the producer, but this is in economic effect the assertion of a proprietary claim over a human being, and is no justification. On the contrary, it is not only an economic injury, but also a personal indignity.

But it may be urged that even in the simple case which we are supposing, in which the producer does his own work and makes his own tools, much of the product is in fact and intention not made for the producer's own physical use, but for an exchange for other products, and is ultimately used by a person who has had absolutely no hand in its production. Does this fact when it exists lessen the private right to the goods exchanged or introduce a new public interest into the mere ownership? In other words, is the right of the purchaser of a product less than the right of the producer? If so, then the article will be of less value to the purchaser than to the producer, and if he is in serious danger of losing part of the purchase to a superior power or of being required to pay again for the ownership, the natural tendency will be for all purchasers to offer less of their own products or services than the goods are really worth to the producer, and although in many cases the danger would be common to both sides of the trade and, therefore, offset, yet as some goods are perishable and used only for immediate con-

sumption, while other goods are for long-continued use, there would be many cases in which the one party or the other would be unable to obtain the full benefit of his product. The right of the producer to the unqualified ownership of his product after the payment of all costs incident to the production involves, therefore, the right to transfer as unqualified an ownership to the purchaser in order that the producer may be able to obtain a full equivalent for his product. It equally involves the right of the purchaser to be protected in as full ownership of the product and, therefore, the right to transfer to any subsequent purchaser the same full ownership, and so on consecutively to all purchasers.

But, as already intimated, the simple case of the producer who does his own work is only a small part of modern production. By far the greater part of modern production is done by the combined efforts of employers and employed. Does this feature of industry give to the state any new or additional public interest in the product as such? It is difficult to see how the enlargement of a productive body from one man into a group of men can lessen the sum total of the rights of the group to the full enjoyment of the product, although it may open the door to quarrels among the members of the group as to the apportionment of the product. If each member of the group does the same kind of work or service in the production, the problem is simply to determine the relative amounts done by each, but if the industry is specialized and differentiated among many kinds of work or service the problem becomes complex. But, although there may be, and undoubtedly is, a proper field for the intervention of the state to keep the peace between members of the productive groups, yet the essence of the relation of the group as a whole to the state is the same as the relation of the single producer thereto, and the sum total of the rights of the group as a whole toward the product must be the same as the rights of the sole producer. The problems of employer and employed are too multifarious to be solved off hand, but at least they are immaterial to a discussion of the relation of the state to the product. If through defective laws or unenlightened social usages the product has hitherto been inequitably apportioned among different classes of producers, the remedy lies in the reform of those laws or usages, but such erroneous apportionment as between members of the group cannot logically raise any special rights of the state on

its own behalf as against the group as a whole or any particular member of the group. The right of the state to a voice must be solely for the purpose of protecting some injured member of the group in his just rights, and not for the spontaneous benefit of the state. In other words, the position of the state should be as judge between contesting parties and not as claimant for the spoils of battle.

It may perhaps be urged that the state has a public interest in regard to the kinds of goods which may be produced within the jurisdiction, and, therefore, has the right to prohibit the production of such commodities as it pleases except upon the condition of paying an excise tax therefor, and in default of payment to close up the business. It may also be urged that many articles are not ultimately enjoyed or intended to be enjoyed within the nation where they are produced, that the government has a public interest in regard to the kinds of goods which may be brought into the country, and that, therefore, the government may rightfully prevent the importation of such articles as it chooses except upon the condition of paying an import tax for the importation. It is not necessary to discuss here whether or when a government has the right to levy an excise tax for production within a country, or an import tax for introduction into a country, but we may say, if and when such taxes are levied, that they are a part of the cost of production or delivery at a certain market, and that after the discharge of such costs of production or delivery, the product, just as certainly as in the simpler case, belongs to the producer or his purchaser in unqualified ownership throughout that jurisdiction.

The right to the product involves the right to the whole and to each and every part of the product which remains after the costs of production and delivery are paid. It also involves the right either to use up that product at once or gradually, or to keep that product for an indefinite time, and to be protected therein. This protection is a matter of right and not a special privilege for which a charge may justly be exacted from time to time. It is one of the reasons for which governments exist. It is one of the reasons why the state is entitled to a public servitude in the lands of the jurisdiction in order that it may maintain an organized community in which there shall be some degree of security for life and the enjoyment of the products of human labor, from which security comes the possi-

bility of any value in the land as a field for human industry. If, therefore, the state exacts a charge for the ownership of such products as have been kept beyond the tax period wherein they have been produced or brought to market, the state is charging a price for that protection which it should give to property as the function of a state's existence. If, further, the state attempts to impose a burden on an inhabitant merely for the ownership of goods which have never been brought within the jurisdiction or have been lawfully removed therefrom, the state is thereby denying that protection which it should give to the inhabitants irrespective of their wealth or poverty, and by denying the right to the unquestioned ownership of property beyond the jurisdiction the state is asserting a proprietary instead of a protective dominion over the inhabitants.

It follows, therefore, that in regard to physical commodities there is not such economic interest as would correspond with the public servitude over landed property, and that the principle of unqualified private right applies to all such articles, because they are the products of human labor, whether they are in the hands of the original producer or in the hands of a purchaser, whether they are produced by a single independent worker or by a productive group, whether they are produced or situated within or out of the jurisdiction, and whether they are produced or introduced with or without any charge for an alleged public interest in the kinds produced or introduced.

Any attempt, therefore, on the part of the state to seize a part of such goods merely because they are private property, or to impose for its own benefit a burden on the owner or possessor merely because of the ownership or possession, is in economic effect a denial of the producer's or the purchaser's full right to the goods, or an assertion that he holds them not in his own right, but in the right of the state. Such a claim on the part of the state by its own initiative is economically a proprietary claim over the man, inasmuch as it lessens his beneficial interest in his own life, denies his right to make or acquire the products of human labor, and deprives him of such products irrespective of any antecedent public interest in those products or the labor by which they are produced.

Besides the products of human labor, however, there are, also classed as personal property, many kinds of representative interests

or rights of action in respect to the present or future use and enjoyment of property. One of the commonest of these is a simple debt for the payment of money. This is a very frequent result of the many kinds of transactions by which men seek to enjoy or develop land and the products of labor, and it, therefore, becomes important to examine the economic nature of a debt. It is notorious that, although a debt may be expressed in money units, there may in fact be no money actually advanced at the time. The consideration, cause, or occasion, for the debt may for instance be the sale of lands or goods for which the purchaser is not yet ready to pay or the performance of labor for which payment has not yet been made. Nothing economically new is created by the creation of the debt. It only represents the right to compensation for a particular transaction. In so far as it may represent land bought by the debtor or any other just source of taxation, it is helping to support taxation through the taxation of such land or other such source. In so far as it may represent the products of human labor or payment for labor, it ought not to be any more an occasion of taxation than the ownership of the products or the labor which it represents; for otherwise we should say that, though the products belong entirely to the owner who has them, the right to receive them does not belong entirely to the person entitled who has not yet received them. Again, in so far as a debt represents deferred compensation for services or any transaction, it represents what the creditor has not yet obtained, and if the state requires a tax for holding such a claim, the state is in effect denying the full right of the creditor to such compensation. Even in the normal case, when money is actually advanced the debt does not lessen the right of the owner of that money. The money itself is either some physical commodity produced by human labor, such as gold, silver, copper, or whatever may be in use, or it is some conventional representative of such commodity. Now, if the private right to the product of human labor is unqualified, it must attach no less to a commodity or its representative used for currency than to products in other legitimate uses, and the mere fact that a debt represents money is no ground for imposing any tax in respect thereof.

Nor is the situation any different if the debt is secured by a claim or charge against property. One such case is a mortgage of land. Two men may wish to use their resources in holding or using

a certain piece of land, but while one of them wishes to hold or use it in anticipation of some possible increase in selling price or for some other special advantage, the other may be interested in it merely as a basis of reasonable security. The first will, therefore, take the title to the property and with it the chance for any advance and the benefit of any special advantages in the property, while the other will take a mortgage for a fixed and prior charge on the property. As the mortgagee is seeking security without contingent profit or advantage, he will naturally give the best terms when he receives the strongest assurances against contingent loss; while as the holder of the title is entitled to all contingent advantages, it is only equitable for him to agree to protect the mortgagee against the burdens which rest on the property, or arise on account of it, and which if thrown on the mortgagee would lessen his security. Accordingly, it is not unreasonable when the title owner agrees to save the mortgagee harmless from any taxes which may be levied in respect to any part of the combined investment. The state loses nothing thereby in respect to its public servitude in the land, for the servitude remains prior to all kinds of private interests in the land, while, as heretofore shown, the existence of the public servitude excludes the right to burden particular owners factitiously.

Again, if the fact that a simple debt is expressed in terms of money is no just ground for the imposition of a special tax in respect to the debt, no more should a mortgage be considered the occasion of a tax by reason of representing money aside from the security in the property mortgaged; for the money itself in the one case as in the other is only a product of human labor or the representative of such product.

Now it is evident that the placing of a mortgage on the land does not increase the value of the land or create any new land or any new economic commodity of value aside from its representative character, whether we regard it as legally a landed interest or an item of personal property. Nor does the fact that it is usually expressed in terms of money units alter its economic effect, which is the same whether the legal property created is heritable or movable. The mortgage of land is merely a piece of legal machinery which represents a particular kind of priority in an entity which, as a whole, supports the charges of the public servitude, and on the other hand the mortgage is no ground for lessening the mortgagee's

right in the equivalent of the money advanced or secured; so that, neither on the basis of a real interest in the land nor on the basis of a representative interest as personal property, is there created by the mortgage any new public interest justifying a special tax in respect to such mortgage.

Nor can the mortgagee's right be justly less in case the land lies outside the jurisdiction of his own home. In such a case the mortgage becomes as to that jurisdiction as if it were a debt without security, or perhaps, rather, a debt secured by a species of security in which the jurisdiction has no just interest for taxation. This would be analogous to a debt secured by a mortgage or pledge of the products of labor according to the foregoing pages. If a mortgage of land is, as respects the land, a mere piece of legal machinery for securing a prior claim over a certain economic entity, and if the apportionment of such entity among a series of private interests is no ground for imposing a special tax on account of those interests, so also a mortgage or pledge of personal property is as respects such property only a piece of machinery for the securing of legal claims against such property, and such apportionment of interests therein can be no ground for any additional tax beyond that for which the property itself should be the occasion. If, therefore, such property consists of the products of human labor, and if such products do not furnish any economic basis for imposing a tax in respect to the ownership thereof, then the mortgage or pledge of such products cannot justly be the occasion for a tax, for such mortgage or pledge is only a part of the unqualified private right in such goods; and the same principle would apply in regard to any other property for which no public interest of taxation may appear. To attempt, therefore, to levy a special tax against the mortgagee or other creditor as such, is a denial of his right to participate in a legitimate transaction. Such an attempt is a violation of the just freedom of the creditor, since it seeks to burden him for an act or thing to which he is entitled as a matter of economic right.

There are, however, many kinds of voluntary contracts and just obligations besides debts expressed in money units. They may be classified generally as claims for some compensation, or for the delivery of or dealing with certain specified property, or contracts for the doing of certain acts, as, for instance, the performance of legitimate employment. In respect to these the same principles

should apply as in the case of mortgages and other debts expressed in terms of money units; namely, that such a legal claim is only a means for the apportionment of the enjoyment of the property, transaction, or services specified therein, and that the existence of such claim is no just ground for the imposition of any other taxes than those for which such property, transaction, or services, from their particular nature may furnish the just occasion. If, for instance, a contract deals with a conveyance of land, or deals with a matter having a public interest, the land itself, as in the case of a mortgage or the matter of public interest, is the element of taxation present. If a contract deals with a sale of the products of labor the fact of sale cannot furnish any ground for lessening the private right in such products.

A merely representative interest, therefore, furnishes in itself no public interest justifying a particular tax for the private ownership; for if it represents a subject-matter in which there is a just public interest of taxation, as land, then the imposition of a special tax on account of the merely representative interest would be to impose a burden in excess of the public interest involved; while if it represents a subject-matter in which there is no just public interest, as products of labor, then the imposition of a special tax would be to impose a burden collaterally where there is no public interest inherently. Moreover, the exclusively private right in merely representative interests would not be affected even if the doctrine of these pages as to the products of labor should be shown to be erroneous, for in that case a representative interest in respect to products of labor would then simply be analogous to a representative interest in respect to land, and the public interest would attach to the economic subject-matter and not to the representative interest. The attempt, therefore, to impose a tax on the owner or holder of a merely representative interest in respect to any property or undertaking, and merely because of the ownership or holding of such interest as private property in law, is a denial of the full private right to such representative interest and the assertion of a proprietary claim by the state over such owner or holder in respect to the disposition of his own resources.

The great bulk of personal property, so-called, consists of representative interests comprising largely the evidences of indebtedness of national and local governments and the securities of corpora-

tions or companies for their indebtedness or other obligations. These corporate securities are the means by which the present or future, simultaneous or preferential, participation in the use and enjoyment of property is distributed among the members of some group or combination of persons for the prosecution of some enterprise or investment. Such securities are of two general classes, first the bonds or other evidences of indebtedness, and second the shares of stock in such corporations. The indebtedness of a corporation, which is an artificial person existing by law, is in no way different from the indebtedness of a natural person, although it is frequently evidenced by more elaborate documents intended to pass readily from hand to hand, and it is, therefore, fair to say that the creditor or holder of such evidence of indebtedness is as fully entitled to his ownership of such claim as he is to the ownership of a debt contracted by a natural person.

The case of stock of corporations stands on a somewhat different basis, for it is a claim of a kind which is not strictly capable of being issued by a natural individual. It implies either a group of persons or an artificial person existing by law, that is to say, a group of persons may naturally agree among themselves for the division of a particular business or undertaking into fractional parts among themselves, or an artificial body when authorized by law may divide its business into fractional interests and sell those interests to various persons. Now the economic meaning of a share is the same whether it is issued by a group or an artificial body; that is, it is merely representative of a claim or action against the group or body for a fractional participation in the benefits of the enterprise after the discharge of claims having priority, but while a group of persons may by their voluntary choice divide an enterprise spontaneously, an artificial body can do so only by law. Does this legal element introduce a new factor lessening the owner's right to the unqualified ownership of such a claim when it is once legally created? The existence of the corporation as a distinct artificial entity raises a variety of questions as between the state and the corporation, for the legal body or capacity of the corporation is created by the state, as commonly said, or perhaps more accurately is created by the organizers of the company under the license of the state, but the existence of the artificial person equally implies that in spite of any special relations between the state and the corporation the right to

the unqualified ownership of such obligations as are lawfully issued shall be as complete as the ownership of any other representative interest, whether they are issued as debts or as shares of stock, for the shares in a business are merely actions against the group or body conducting the business and relate to the ultimate disposition or enjoyment of the assets of the enterprise.

The mere fact, then, that shares are issued by an artificial body, while it may affect the power of such body, should not differentiate shares of stock from other representative interests as to the completeness of the owner's right to such as are once legally issued. That is, the public interest in respect to such corporate shares goes to the legality of the issue and not to the right of the owner to the complete ownership thereof. If the corporation owns property which, like land, involves a just public interest of taxation, such property must pay a tax as between the corporation and the state. If the corporation owns property for which no tax ought to be exacted, still less ought the shareholder to be burdened for his representative interest. As the public servitude for taxation of land attaches to the whole of a particular landed property as an entity and not to the separate interests therein distributively, so any just public interest of taxation in respect to a corporate enterprise attaches to the particular properties in the hands of the corporation or to the enterprise as a whole and not to the representative interests of security holders distributively. Government securities and corporate stocks and bonds, therefore, are merely special types of the general class of representative interests and offer no distinctive ground for the imposition of a special burden on the owner because of the ownership. Such a tax is a violation of his right to acquire and hold such interests in the place where they are lawfully issued, and is, therefore, an invasion of his just freedom.

Nor is the doctrine of the right of unqualified private ownership of corporate securities derogatory to the state's power in dealing with the corporations which it has created. On the contrary, the doctrine recognizes and reinforces that power, for while a natural person is entitled to his freedom as a matter of natural right, a corporate person is entitled only to that which the law confers upon it. The absolute responsibility of a corporation to the law for any infraction of the terms of its existence has been too often and too recently affirmed by the courts to need any amplification, and the

reasonableness of such a rule is too obvious to need discussion. Any deficiency, therefore, in the amount of taxes raised from corporate enterprises is a matter which should be treated by amending the laws as between the corporations and the state, and not by factitious assaults upon the holders of representative interests, for the corporation is always and necessarily in the grasp of its creator, the state, while the natural person is entitled to freedom. Jonathan Edwards' famous word picture of sinners in the hands of an angry God, who shakes them over the fires of retribution, however it may offend theologically the present feelings of men, is at least an appropriate likeness of the position of a recalcitrant corporation in the hands of an outraged people, and suggests a legitimate means of dealing with the evils of corporate mismanagement and aggression.

There is, however, a widespread belief throughout the United States and Canada that a portion of the public revenue should be raised out of personal or movable property, and accordingly the states, territories, and provinces generally have more or less stringent laws for taxing the owners of such property. Every inhabitant is liable to be investigated by the state or local officials for the discovery of any personal property for which taxes are demanded in the particular jurisdiction, so that in America to-day we still have a rough similitude of the old feudal society, with the nation or a state of the union representing the king or a duke, and the municipality representing the lord of the manor, as if the personal property in the jurisdiction were to be considered as held mediately or immediately of the state or municipality to which feudal services must be rendered in return. This feudal parallel is further shown by the historic fact that this method of taxation comes down from colonial times along with the personal method of assessments for real estate, and that it resembles some of the taxes levied by the medieval English kings, particularly the taxes called "tenths" and "fifteenths," which are described by Blackstone (Book 1, Chapter 8) as "temporary aids issuing out of personal property." He says they "were formerly the real tenth or fifteenth part of all the movables belonging to the subject," but were fixed at definite sums for each district in the reign of Edward III.

The various states differ widely among themselves in the kinds of personal property which they select as the occasion for these

taxes. Nor do they limit themselves to a merely feudal claim for property within the jurisdiction. Some states, as Massachusetts for instance, seek to tax the inhabitant for physical articles situated outside the jurisdiction, and for stock in corporations not organized under the local law. These taxes are commonly called "taxes on personal property," but it is obvious that it is physically impossible for a state to put a tax *on* a drove of cattle, for instance, situated outside the territory of the state, or *on* a share in a corporation which has no charter under local law. The most that the state can do physically is to tax the owner within the jurisdiction for owning such property outside of the jurisdiction.

It is commonly said in the law books that property must have a *situs* in the jurisdiction in order to justify taxation, but then it is said that movables are held to follow the person of the owner and to have a legal *situs* at his *domicile*. This is, however, merely a way of saying that if a certain property can be moved, or is of a kind ultimately resulting in cash, as a debt, the state will deal with the owner as if he had already moved the goods or the proceeds into the jurisdiction. This is necessarily a denial of the owner's right to such property and a claim that he must hold it primarily in right of the state. It shows, however, the true nature of the claim for taxes on account of personal property as a charge against the person of the owner. If, as herein contended, the products of human labor and the merely representative classes of personal property involve no public interest analogous to the public servitude of taxation in land, then the imposition of taxes on the owner of such personal property merely on account of the ownership is a denial of the full right of such owner and an invasion of his just freedom, inasmuch as it restrains him of his property without the basis of an antecedent right for such restraint. Such a restraint is economically a proprietary claim over the owner, and is a servitude over the person rather than over the thing.

This servitude over the person appears not only in the nature of the claim made, but even more in the methods of its enforcement, with arrest of the body in some states, and a general liability to the seizure of property other than the specific property for which the tax is levied. The particular details for the assessment and collection of the tax vary in the different states, but in general they depend on some action by an officer or assessing board amounting

to an informal or summary decree that a certain person must pay a certain sum for alleged personal property. This is often or generally accompanied by some provisions requiring the person assessed or assessable to appear and disclose his possessions under examination by oath either before or after the action of the public officials, with the penalty that on default of such disclosure the action of the officials shall be final and binding upon him personally. These methods are practically necessary if such taxes are to be enforced at all, but such necessity should in itself condemn the system of such taxes, for it ought to be evident that the spontaneous issuing of a decree by an external authority against a person for the arbitrary benefit of that authority is an invasion of that person's just freedom and the assertion of a proprietary claim over that person, while the enforced interrogation into a person's private affairs solely for the wilful benefit of the interrogator without the basis of antecedent right is of itself the very essence of servitude over that person.

Perhaps it will be objected that just as in the market value of land the average purchaser of landed property for investment will discount the effect of the tax, so in the purchase of investment securities he will pay only such a price that the probable returns of the property will leave him a fair return after the payment of the tax, so that in the end he will not suffer appreciably. There is undoubtedly a tendency in this direction, but as the state in the great majority of cases has no available hold over the property itself, the question of the necessity of paying the tax in any particular case is entirely problematical, and in the nature of a fortuity against which some allowance must be made, but which, in the long run of chances, will be manifested by an allowance much smaller than the actual tax. This seems to be shown by the general standard of prices for taxable and non-taxable securities, the non-taxable commanding an appreciably better price over taxable securities of the same general class, but the difference being much less than the tax itself would indicate as necessary. If in any particular class of investment the tax becomes practically effective this difference in price will tend to offset the tax, and in the end the person or enterprise seeking to raise money by the issue of such securities will indirectly suffer by realizing a less sum than the face of the paper would seem to indicate, or, which is the same thing, by paying a higher interest charge for the advances of capital.

This was apparently the case in the recent experience of New York with a mortgage tax. The law was so diabolically effective that interest rates at once rose proportionately with the tax, and borrowers soon began to call for the repeal of the law. The experiences of some other states with mortgage taxation have been similar, so that we may say that when a law for the taxation of creditors is really generally effective it defeats itself and throws the real burden on the borrower by causing an increase in interest rates or other costs in negotiating the loan. This principle has been long recognized by some governments in negotiating their own loans. For instance, the United States Government and some state governments make their own bonds exempt in the jurisdiction of such government in order to obtain the best possible prices for them. The same principle should be recognized in favor of private borrowers. There is no reason why the state should play the game of life with loaded dice. If the fact of being in debt should be considered a good ground for taxing the debtor, it would really be better for the debtor to know it and pay the tax openly rather than covertly through the medium of increased interest charges.

Although in a large number of cases it is practically impossible to enforce these personal property taxes according to the theory of the law, yet in certain cases it becomes possible, and then these taxes fall with unmitigated severity. Such cases are generally those in which taxable personal property is held in a fiduciary capacity under the order of some court, for then an exact disclosure must be made. Thus the estates of deceased persons, while going through the probate courts, and trust funds under wills, or the estates of children under guardianship, are peculiarly exposed to attack. The loss in such cases frequently falls on dependent persons who really need every dollar of their funds, and this result is the most likely when the laws are the most stringent.

Nevertheless these taxes seem to be most favored by the poorer portion of the community, under the supposition that in some way they are hurting the selfish rich, whereas the more selfish the rich man may be the more readily will he resort to every expedient and device to escape, so that one consequence of these laws is that many of the choicest investments suitable for persons of moderate means are practically forbidden to many such persons and are driven into the hands of the less scrupulous portion of the community. Thus a

system which is supposed by its advocates to be founded on equality really rests largely on the borrowing business man and the dependent classes, and instead of being, as it is called, taxation according to ability, may almost be described as taxation according to vulnerability. But the cause of this runs deeper than the details of the law into the system itself. The system is not only defective and burdensome in practice, but unjust in theory, for it is a denial of fundamental right, an invasion of true freedom, an assertion of proprietary claims over human beings, resulting in a servitude of the person rather than of the thing.

## CHAPTER V

### FRANCHISES IN RELATION TO TAXATION

The difference between landed property on the one hand, and merchandise, the product of labor, on the other, is that one is only a qualified private interest in a subject-matter in which from its nature there resides a public interest concurrent with and prior to the private interest, while the other is a subject-matter over which the private right should justly be considered as entire and exclusive. So, too, the intangible representative interests which make up so large a portion of property holdings should be considered as representing in themselves entirely the interest of their owners, so that neither in movable goods nor investment securities is there any such public interest as the public servitude in land to justify or require the depleting of the separate private interests involved.

But merely representative interests do not constitute the whole body of intangible property. Just as in regard to tangible property, that is, lands and goods, we find two classes, one, lands involving justly a public interest of taxation, and the other, goods, involving justly no such interest in respect to the mere ownership thereof, so in regard to intangible property we should expect to find a class of rights involved naturally with a just public interest of taxation as well as the merely representative rights involving no such public interest in respect to the mere ownership thereof. Such a class of intangible property involving a public interest appears in franchise rights artificially created by the law. As a title to a specific piece of land is individualized from all the rest of the surface of the earth by the artifice of positive law in an organized society, so these intangible artificial rights are carved out of the whole field of human activity by the grant of the organized state which recognizes and supports them. That is, these intangible rights exist not by the creation of the labor of man, nor as merely representing a claim to participate in the proceeds of some particular enterprise, but as the manifestation of the continued existence of that juridical per-

son, the organized state, which exercises the public functions of the community.

Such rights are special privileges created for some assumed special purpose which will be, or is supposed to be, beneficial to the industrial development of the community, and, therefore, when granting or recognizing such a right the state may be considered as a kind of special creditor which has contributed a valuable ingredient to the assets of an enterprise. The fact that such rights are special privileges does not in itself render them an unjust exhibition of state power or an unjust species of property. A land title to a particular piece of the earth's surface is in a certain sense a special privilege, but it does not follow that property in land is an unjust species of property. On the contrary, it is difficult to see how land could be effectively used without creating some kind of proprietary right therein, for any use involves at least some temporary occupation recognized by the law, and any such occupation, however ephemeral, is, while it lasts, of the nature of a proprietary right. A mere estate at will gives some right to the tenant till the estate is terminated. Hence, if the effective use of land requires the recognition of some degree of proprietary right, the extent of that kind of right to be recognized by the law is only a matter of policy, whether there shall be estates at will, for years, or in fee simple, although estates once created should be sacred. That is to say, it would be perfectly legitimate for a new state starting out fresh on virgin soil and owning all the land in the jurisdiction to decide that it would grant no title greater than a lease for a certain maximum period. Such a policy might prove unwise in its result, or it might prove beneficial in some communities. So also a policy of acquiring or keeping in governmental control lands of some particular characteristic would be a legitimate policy, as, for instance, the water front of a great city like New York, lands reclaimed from the sea like the Commonwealth flats at South Boston, or mining lands containing a commodity of great public importance, as President Roosevelt has suggested in regard to coal and oil lands.

In all such cases the question of public or private ownership is only one of policy, provided only that if public policy is applied to lands in which there are pre-existing private rights, full compensation is paid therefor. So, too, on the other hand, if a state decides that it is advisable on the whole to have private estates of fee

simple for private owners and their heirs and assigns forever, that, too, is a matter of policy, and the institution of private property in land is not in and of itself an unjust establishment. It is, to be sure, an institution which may be abused or coupled with unjust concomitants as in the feudal tenure, but the abuse or collateral injustice is not inherent in the institution itself. On the contrary, if concurrently with the private right in the land we recognize the public servitude of taxation therein, the institution of private property in land becomes a valuable means of realizing from the industrialism of the community upon the public as well as the private side.

Thus the mere fact that private property in land may, in a certain sense, be called a special privilege does not condemn the institution as such, but merely raises the importance of the concurrent public interest. So, too, the creation or recognition of an intangible special privilege or franchise is in itself not an occasion for condemnation, but rather for the assertion of some public interest connected therewith. This is a principle which has been somewhat recognized in the legislation of some of the American states and seems likely to become more so in the future. The most conspicuous example of this in recent years is the well-known act called the Ford Franchise Tax Law of New York, an act which has passed through the Supreme Court of the United States in the case of the Metropolitan Street Railway (199 U. S. 16), and which, even if it should later be overthrown by the courts on some technical ground, would nevertheless mark a distinct advance in the road toward reaching and applying one of the most abundant resources for legitimate public revenue.

The principle of franchise taxation is not, however, altogether clearly defined in the general treatment of the subject. It is commonly said that a franchise ought to be taxed because it is property, but if there are some kinds of property which do not furnish a just occasion for taxation by the mere ownership thereof, then it is obvious that the mere fact that a franchise is property, however sufficient that may be legally under existing law, is not a sufficient basis for justifying the tax. For that purpose it is necessary to say rather that a franchise is a special kind of property involving collaterally a public interest, and it is, therefore, important to consider the scope and bearing of that interest in relation to taxation and the enforcement thereof.

Franchises were recognized as property rights under the English common law and were classified as incorporeal hereditaments. A franchise was considered to be "a branch of the king's prerogative subsisting in the hands of a subject." The word "franchise" in its origin means "liberty," but in its common use it refers not to liberty as an abstract principle, but rather to some particular grant or recognition of some specific liberty in the sense of permission. Bracton, in dealing with franchises (Book 2, Chapter 24), uses the Latin word "*libertates*" in the plural, and this seems to show that in using the singular in the same connection he is referring to some particular liberty as a privilege of the law or a right guaranteed by the law rather than to liberty in the abstract. He also calls these liberties "the aforesaid privileges" (*privilegiis supradictis*).

This use of the word "liberty," in a special rather than a general sense, is common throughout the succeeding centuries of English history, and seems to be the meaning of the word in the Massachusetts "Body of Liberties" of 1641. Among his special liberties Bracton includes an exemption from taxation. He says on this point: "For a liberty is an evacuation of a servitude, and they regard each other in a contrary manner, and, therefore, they do not remain together. For there may be a liberty thus, if a person be bound to give something on the ground of a servitude, as, for instance, toll and customs, he may, on the ground of a liberty, be defended from giving them at all. (Est enim libertas evacuatio servitutis, et contrario modo sese respiciunt, et ideo simul non morantur. Esse enim poterit libertas, ut si quis teneatur ad dandum ex servitute, sicut theolonium et consuetudines, ex libertate defendi poterit ad non dandum.) It is certainly interesting to observe that six hundred years ago personal liability to taxation was described as servitude.

Apparently, however, Bracton was annoyed at the thought of servitude in England, for, in discussing liberty and servitude in the abstract (Book 1, Chapter 6), he alleges that the word "servitude" is derived from the Latin word *Servare*, to preserve, and not from *Servire*, to serve; a characteristically medieval etymology which does more credit to his patriotism than to his philology. According to this view, the services rendered under servitude are only compensation or gratitude for the preservation of the serf's life by the master, a strictly feudal view. Bracton in this general discussion

seems particularly desirous of showing that the servitude of the serf is not inconsistent with the freedom of the English law, a very difficult position in the point of view of the present time, but one which well illustrates the interlocking of the two principles in feudal society. It has its counterpart, however, to-day in the opinion which seems to be held by some that the rights and security of the state and the community require the undermining or denial of private rights.

At common law franchises might be of many different kinds. Among them was the franchise of being a corporation. This may be called merely a general franchise necessarily present in every case of incorporation. In addition to this, there are various special franchises which, from the nature of the business to which they relate, are not easily manageable by a natural person, and as a matter of fact are generally found in the hands of a corporation, but in theory at least might belong to a private individual. It is these corporate franchises which make up the great bulk of franchise property in these days, and aside from the general franchise of being a corporation these special corporate franchises may be roughly divided into two groups: business franchises, or rights to do specified acts generally throughout the jurisdiction; and local franchises, or special rights in respect to some particular piece of public property, as, for instance, the right to maintain a railway in a public street. In a still more general sense the sum total of all the franchise rights, general or special, of a particular corporation in a given jurisdiction may be conveniently called the corporate franchise, and treated as a whole as something used in an entire enterprise.

From this convenient consolidated use of the term "corporate franchise" we naturally get the common expression, "the taxation of corporations," which is well enough as a phrase if we bear in mind that aside from the merely general franchise of being a corporation the justification of corporate taxation must rest in theory on the fact that the state has somehow put something into an enterprise, something of real assistance to the enterprise, or on some inherent public interest in the kind of business undertaken, rather than on a mere desire to obstruct the corporate manifestation of human activity. It would be exceedingly unfortunate to base a public policy on mere hostility to a particular kind of legal machinery, namely, the corporation, which by its organism and its continuity offers most

advantageous means of individualizing and concentrating a particular enterprise into a vitality of its own; so that neither the death of individuals need destroy the enterprise, nor the failure of the enterprise need overwhelm the individuals concerned therein.

Accordingly, we should carefully bear in mind that in strictness it is the franchise as a special privilege connected with a certain enterprise, rather than the corporation, that offers the occasion and justification for taxation; so that in theory at least the enterprise as an entity would pay the same taxes if the franchises were vested in a private individual. It is, however, true that the fact of incorporation, by reason of the artificiality of the body, sometimes offers particular facilities for dealing with the matter in a manner which might be open to just objection in dealing with a natural person, since an artificial person may justly be treated with a particular degree of responsibility to its creator, the state. But this qualification may be referred to the general franchise of being a corporation, as one of the incidents thereof.

With the distinction well in mind that it is the franchise and not the corporation which offers the just occasion for taxation, we may treat the intangible franchise as an entity and draw an analogy in some degree with the characteristics of landed property. Each is an artificial right created or recognized by or under the law of some particular jurisdiction and, as the law books might say, in derogation of common right; not that either is essentially unjust as the violation of any particular person's particular right, for we are not speaking of arbitrary monopolies, but each is in a certain sense carved out of that general stock which, not being created by any particular person, may be considered as the common right until so carved up. As in each case the artificial right exists by the support of the organized state as the agent or manifestation of the community, which, by its peaceful industry, gives usefulness and advantage to the entity created, so in each case, with franchises as well as with landed property, the private interest may justly be held to be concurrent with a public interest in or over the entity to support on a basis equitably related to other entities of the same kind the public expenses of the jurisdiction in and by which it exists.

In further analogy with landed property the public interest in a franchise should be considered as an impersonal charge against the

franchise itself and not as a personal obligation against the owner, either in respect to the ownership or on account of some collateral circumstance of the owner, for that would be a servitude over the owner. By this view, as the sole duty of the owner of land under an impersonal system is to be passive when the state legally enforces a tax upon the land, unless the owner wishes to redeem the land by the payment of the tax, so in the case of a franchise the sole duty of the owner of a franchise would be to desist from the exercise of the franchise when the state asserts its public interest, unless the owner of the franchise wishes to redeem the same by paying the tax. In this sense the tax may then be said to be on the franchise instead of being on the owner on account of the franchise. The difference in the application of the theory to the two kinds of property would come merely from the difference between the tangibility and intangibility of the subject-matters. Land is tangible, and the claim of taxation against the land may be ultimately enforced by the physical seizure of the land. A franchise is intangible, and the seizure must, therefore, be symbolical, or the franchise may by its terms be made perishable on default of payment. If the owner of the franchise simply desists from exercising the same when notified that the state is asserting its right over the franchise by due process of law for the cancellation or condemnation and sale of the franchise, he should, therefore, be considered as entirely within his rights and should be liable to no other penalty than the loss of the franchise itself.

This principle that the owner should desist at the assertion of the public interest is apparently at the basis of the provision sometimes enacted authorizing an injunction against continuing to act under the franchise on default of payment of the tax, for, although an injunction is a remedy against the person, it is a negative remedy, notifying him of the assertion of the public interest and ordering him not to interfere with the right of the state. Here again the analogy of landed property helps to explain the impersonal view. If the owner of land instead of paying the tax or peaceably yielding possession of the land to the person lawfully entitled under the right of the state for the collection of the tax, should violently hold possession by force he would obviously be exceeding the principle that the state should look to the land and not to the owner for the tax. So, too, if the owner of a franchise should refuse to desist

when notified of the default and the assertion of the public right, he would be exceeding the limits of the principle that the state should look to its interest over the franchise and not to the owner, and he would, therefore, have no just ground of complaint at the employment of a remedy like injunction for his threat to exercise more than his right.<sup>9</sup>

In practice, however, the importance of this distinction between impersonal taxation on the franchise and personal taxation for the franchise is of much less consequence than the same principle as applied to land, because almost all franchises of any considerable value are, as a matter of fact, usually held by corporations and include, of course, the general franchise of being a corporation, from which general franchise the artificial entity or juridical person may in many instances be justly and legally held to a degree of supervision which would be unjust in the case of a private person in the absence of some particular characteristic of the business conducted. It is also of interest to observe that those businesses which, from their particular characteristics, may be said to have a semi-public nature, are usually so large or intricate as to be in the hands of corporations. Thus the very fact which renders incorporation useful in a given case may also justify a particular restraint upon that business, while the general power of the state over its corporation furnishes the ready instrument or channel for the convenient application of that restraint.

The valuation of a corporate franchise is a problem that has not reached a unanimity of treatment, either in fact or in theory. In general there is a disposition to regard the value of the franchise as roughly represented by the difference by which the securities floated by the enterprise exceed in market value the cash value of all the assets other than the franchise. Theoretically, if we could always be reasonably sure of all these elements of the problem, this method might be entirely sound, but the matter is still somewhat in the experimental stages. There is a difference of opinion as to the classes or kinds of securities which should be taken as the basis of the estimate. For instance, the corporation act of Massachusetts of 1903 requires the tax commissioner of the commonwealth to estimate in regard to a corporation "the fair cash value of all of the

<sup>9</sup>On this point see a recent case in Massachusetts, *Scollard v. The American Felt Co.*, Feb. 26, 1907.

shares constituting its capital stock on the preceding first day of May, which shall, for the purposes of this act, be taken as the value of its corporate franchise. From such value there shall be deducted the value as found by the tax commissioner of its real estate and machinery within the commonwealth subject to local taxation, and of securities which, if owned by a natural person resident in this commonwealth, would not be liable to taxation; also the value as found by the tax commissioner of its property situated in another state or country and subject to taxation therein." (Acts of 1903, Chapter 437, Section 72.) The tax is to be assessed at an average rate of local assessments for the whole state, and there is a provision for a maximum and a minimum tax.

Now it is to be noticed that in this Massachusetts act the shares of stock at their fair market value are taken as the measure of the franchise and, after the deductions are made, as the measure of the tax, while securities in the form of debts, such as bonded indebtedness, are ignored. The result is that the tax may be made very different by the simple device of varying the form of the securities issued. Thus the very same enterprise needing \$200,000 to be invested, would pay a much larger tax if it should raise it all by issuing stock than if it should raise half by issuing stock and half by issuing long-term bonds. It is accordingly believed by some that capital embarked in an enterprise by a bond issue or other indebtedness should be considered on the same footing as the value of the stock in estimating the franchise. It is true that there is supposed to be local taxation on account of the bonds, but it is notorious that if such taxation were at all effective, for the most part the bonds would not be salable at prices making the interest at all moderate for the corporation, so that the omission of bonds from the franchise computation is really an invitation to the bond-holders to take advantage of the defects in the professed scheme of local taxation.

The open recognition of bonds and securities generally, as merely representative interests for which the holders should not be personally liable to taxation, would logically require that bonds should be on the same footing as stock in estimating a franchise, since they are simply different kinds of claims to ultimate compensation, or benefit out of one entire enterprise. Just as a mortgage of land may be said to represent merely an interest in one

entire entity, the land which furnishes the occasion and just object of the tax, so the indebtedness incurred to raise capital for an enterprise, even if such indebtedness is not secured by any actual mortgage, is, in its priority over the claims of stockholders, a kind of mortgage on the enterprise, and makes up part of the whole which, as an entity, should be the occasion of taxation rather than the separate interests therein distributively. This principle of taxing the enterprise and not the owner has been partially recognized in some jurisdictions by provisions that stockholders in certain corporations which pay certain taxes shall not be liable to taxation for their stock.

But perhaps it may ultimately be found that this whole theory of offsetting the market value of one or more classes of securities against the value of assets, in order to determine the value of the franchise, is radically defective in some vital element and, therefore, scientifically erroneous. The very fact that Massachusetts has considered it necessary to allow an arbitrary maximum limit, beyond which the corporation tax shall not rise, because a logical working out of the theory would altogether prohibit many lines of business from incorporation, seems to suggest that there is something wrong with the theory. Perhaps the inquiry should be whether the corporation, by the use of the corporate franchise, is earning more than the current rate of interest for the fair value of the assets, and how an apportionment of that excess should be made.

In so far as a particular franchise is of a strictly local nature, such as the operation of a railway in certain public streets, there seems to be very good reason for treating that franchise on a basis similar to the treatment of neighboring landed property, for it is itself in a certain sense a species of landed property, being a qualified right over certain particular public properties, to wit, the public streets. When a specified strip of land is devoted to the general public uses of a public street the particular public interest of taxation in that strip may be said to be merged in the larger public interests for street purposes. When, however, portions of these public interests for street purposes are segregated and turned over to private ownership again as a local franchise, such a franchise is logically analogous to a land title, though only of a strictly limited character, but to that same extent there may be said to emerge a special public interest of taxation over the special land title created.

Such a local franchise, being, therefore, analogous to or of similar nature with a land title, it may with reason be urged that the public interest of taxation over such a franchise should be asserted in a manner analogous to the treatment of neighboring landed property, and for that purpose the franchise should be valued as nearly as possible like an ordinary piece of land. The principle of seeking a value of such local franchise may be fairly admitted, even if the method of estimating that value may be in doubt.

This principle of treating local franchises like land seems to be first prominently brought to the front in the famous Ford Franchise Tax Law of New York, an act which, therefore, marks an advance step of great importance in developing the field of franchise taxes as a just method of public revenue. That act may very likely be found open to some objections in details just as the details in the methods of land taxation are far from satisfactory, but the principle may nevertheless be approved, even if details in application need amending. It would certainly be a singular situation to consider a common private land title in ordinary landed property to be subject to a public interest of taxation while a partial private title in a piece of public property, the street, should exclude all public interest therein. Such a result would be particularly unfortunate in view of the rumors of questionable practices sometimes attending the grant of these privileges. It is of course arguable, and no opinion is here intended on the point, that instead of granting such franchises outright or for a long term, it would be better to keep them in the public hands to let them out at comparatively short terms at a good rental. The point is immaterial in this connection, but serves to show the importance of these franchises as a source of public revenue, and that, although future grants might be restricted by a rental, past grants are out of reach unless we may infer a collateral public interest of taxation.

If such public interest can be justly found in connection with these local franchises, then the question of granting such franchises or keeping them in public ownership or management becomes merely a matter of expediency in view of the circumstances of each particular case, for in either method there is a sufficient security of public control for the public rights involved. The analogy between local franchises and land titles offers a reasonable basis for asserting the concurrent existence of a public interest of taxation over

such franchises, along with the private interest therein, on the ground that they are a special kind of property, rather than on the ground that they are merely property, and obviates all necessity for assuming that in order to protect the public right such enterprises as involve the use of local franchises must be conducted by public ownership or management. Other elements may enter into special cases and furnish apparent reasons for a policy of public ownership or management, but if we recognize the principle of franchise taxation each of such cases can be independently treated as a mere matter of policy for attaining the best results under particular circumstances.

We may freely admit that the policy of public ownership or management of public utilities is in the abstract a perfectly legitimate policy, when circumstances seem to indicate that the particular public body in question is likely to deal with an enterprise in an intelligent businesslike manner with a reasonable prospect of financial success, just as if a private individual were considering the proposition of embarking in the enterprise. It may even come to pass in process of time that such a policy will be generally considered as the most advantageous in well-developed communities, but in view of the frequent absence of genuine businesslike qualities in dealing with public business, it would certainly be unfortunate if there were no reasonable and efficacious middle ground between the extreme of unlimited private control, on the one hand, and unmixed public management on the other. At least one factor of such middle ground seems to lie in the recognition of the public interest of taxation over the local franchises which the public service enterprises so generally require. With such a principle recognized and in use we need have no more fear of the consequences of granting such franchises than we now feel at the grant of private land titles. It is for this reason that we may hail with satisfaction such an act as the Ford Franchise Tax Law, and accord hearty applause to its authors and promoters.

The strictly local franchises, however, do not comprise the whole body of franchise rights which the state may create or recognize, and however satisfactory a system of valuation of a local franchise may be, we need not infer that we must necessarily seek a valuation in order to express the public interest over the franchise. Apparently some franchises are of such a nature that there may

be no certain value ascertainable, aside from the nature of the business itself, so that the public interest may be said to arise not so much from the franchise as from some characteristic of the particular business in its relation to the public. It is obvious that any such public interest may be just as valid when totally impossible of designation by any ascertainable value. In such a case some element of the business as such must be selected as the measure of the tax representing the public interest in that business. It is perhaps to this principle that we may refer certain taxes levied in respect of certain businesses of a semi-public nature, or having an especially vital relation to the public welfare, such as public service undertakings or the banking business. A tax measured by the gross receipts of a public service enterprise may perhaps come under this head, and so also a banking tax measured by the amount of deposits in the institution. Any such tax enters into the operating expense of that business and thus asserts a public interest therein without attempting a valuation of that interest apart from the business. Of course, if the state asserts a larger interest than the business at a particular time can stand, the result is the same as when a private creditor maintains a claim beyond the resources of the undertaking and the business must cease. It is thus of advantage to the state to assert its interest in a cautious though none the less effective manner.

The necessity, however, for the existence of a real public interest, in order to justify such a business tax and relieve it from the blame of an arbitrary exaction, is shown in a recent case in Massachusetts. That was the case of *O'Keefe v. The City of Somerville*, in regard to the constitutionality of an act imposing an excise tax in respect to a business conducted with the accompaniment of giving trading stamps. The case turned on the meaning of the word "commodities" in the taxation clause of the Massachusetts constitution, and in the opinion of the court, by Chief Justice Knowlton, the following passages occur:

"It is not necessary in the present case to determine the meaning of the word 'commodities,' in reference to every possible application of it, but we are of opinion that it is not broad enough to include every occupation which one may follow, in the exercise of a natural right, without aid from the government, and without

affecting the rights or interests of others in such a way as properly to call for governmental regulation." . . .

"Even if the legislature might constitutionally impose an excise tax upon the business of selling articles in the usual way, it has not attempted to do so, and this, if it were construed in reference to the general business of selling alone, would be unreasonable and unconstitutional, because it would impose a tax upon some vendors and not upon others. We are, therefore, brought to the question whether the peculiar way of selling, to which the statute relates, involves a material difference in the nature of the business, such as to warrant the imposition of an excise tax on that account." . . .

"Taking the acts referred to in the broad terms of the description in the statute, they are not dependent for their legality upon the legislative will, nor do they call for legislative regulation. They are performed in the exercise of a natural right, and are not in any sense rights or privileges conferred by law." Accordingly, the court held the tax unconstitutional.

It is seldom that a judicial opinion contains in so few words so broad an applicability. In that case the court was dealing only with a very narrow question of constitutional law in a particular jurisdiction, but the language of the court goes far beyond the confines of mere technical law, and lays down the fundamental principles which in such cases should govern not merely the action of the legislature under a certain constitutional phraseology, but also the action of the state in establishing its constitution and empowering its legislature to act. There must be a public interest in the subject-matter in order to justify the occasion for the tax.

The same principle doubtless should apply in the somewhat analogous case of a mere license tax, that is, there should be some element of public interest in the nature of the business transacted, aside from the mere industry of the manager of that business. Perhaps in one sense a license tax may be considered as a species of franchise tax, provided this element of a public interest is present, but if it can be called a franchise tax we must use the term as applying to a franchise of totally uncertain value apart from the skill of the person who uses it, and we must recognize that when the element of public interest is present to justify such license tax, the amount must depend on the state's discretion by general laws to meet the conditions of varying times and places. Thus the

principle of requiring a public interest to justify the tax will not hamper the action of the state when the public interest is truly present, although there may always be wide room for discussion as to any particular method for applying the tax.

Now it is the indubitable presence of this element, a public interest, that makes corporate franchises a just field and source of public revenue, not because they are corporate, as heretofore said, but because they are special privileges existing by the action or recognition of the state. Much of the popular desire to hamper the operation of corporate enterprises is founded on well-grounded resentment at the misuse of corporate power, but in so far as such desire is founded solely upon such resentment such an attitude is unintelligent, unscientific, and unjust. A more rational view is to assert to a reasonable and equitable extent the public interest over the franchises which such enterprises must generally employ and which furnish so large a basis for their prosperity. When this policy is pursued, and so far as it is pursued, these special privileges are no longer a drain on the community for the benefit of a few merely, but become a species of joint enterprise in which the benefit to the community is concurrent with the opportunity for private benefit therein. By this the prosperity of private industry is consistent with the public rights, and the public rights are found in co-operation with private industry.

The policy of franchise taxation is, moreover, not only reasonable in itself, but is the complement and corollary of the doctrine herein asserted that the merely representative securities of an enterprise do not offer a just reason for the taxation of the holders for the ownership thereof. The eagerness to impose taxes on the owners of intangible personal property by means of drastic and oppressive laws is largely due to the feeling that somehow, somewhere, in the shuffle of corporate enterprise, something of value has been subtracted from the community without just recognition of public rights, and that any attack on the security holders as the ultimate beneficiaries of the enterprise is, therefore, a worthy assertion of the public rights. This feeling entirely overlooks the difference between the investors individually and the corporate entity of the enterprise. Any injury to the public in any particular case is the act of the corporate whole as a body, and, therefore, the remedy should be found in the enterprise as a whole in the hands of the

corporate body, and not in the indirect benefits in the hands of the security holders distributively. This remedy the principle of franchise taxation offers, for it is precisely at the point of abuse of franchises that the real ground of just complaint against the corporation lies, and just as a parcel of land as a whole furnishes the sole and sufficient basis for a just tax covering the land as a whole, regardless of the number or manner of separate interests into which it is divided or to which it furnishes the security, so the corporate franchise as a whole in the hands of the corporation furnishes the sole and sufficient basis for a just tax covering the enterprise as a whole regardless of the number or kinds of securities which representatively depend on that franchise for a portion of their value.

The principle applies whether or not the stockholder or other security holder resides in the same jurisdiction where the corporation is organized or does business, for the justification of the tax, in the case of a corporate franchise, as in the case of a piece of land, depends not on the personal accident of the ownership of the ultimate benefit to be derived, but on the presence of some public interest in connection with the subject-matter. In the case of land such public interest obviously belongs to the jurisdiction where the land lies. In the case of a franchise it should be equally obvious that the jurisdiction entitled is the jurisdiction under which the corporate body as an entity exercises its corporate privilege, and that this is a claim respecting the franchise in the hands of the body, and not justly a claim respecting the person of the security holder.

Accordingly, when a corporation organized in one jurisdiction is admitted or permitted to do business as a body in another jurisdiction, such body as a foreign corporation is exercising a corporate privilege in the permitting jurisdiction, and such a privilege may justly be in a certain sense esteemed a franchise involving a public interest of taxation as truly as the franchise of a domestic corporation. Nor should there be any practical difficulty about discovering and reaching the operation of such foreign company, for the recognition of the foreign corporation, as a corporate body, is dependent entirely on the permission of the permitting state, and such state may reasonably declare that unless the foreign body declares its corporateness and takes out a license under local law, the acts of its agents in that jurisdiction shall be considered not the acts of

the unrecognized corporation, but the acts of the agents personally, who shall be personally responsible as agents for a non-existing principal. In important enterprises, therefore, the foreign corporation will be advantaged to declare itself in order to employ competent agents.<sup>10</sup>

On the other hand, this principle of veto over foreign corporations involves the corollary that when the securities of an enterprise are held by the citizen of a state wherein the enterprise is neither incorporated nor does business, as the public interest of franchise taxation belongs solely to the jurisdiction having to do with the franchise subject-matter, so the ownership of the citizen in the securities of such outside enterprise is as entirely devoid of any public interest of his state as in the case of a domestic body operating under local laws, for the interest of the state over foreign bodies must justly be limited to such bodies as seek to exercise corporate privileges within the jurisdiction, and this interest exists as between the state and the corporate body, not as between the state and holders of representative interests or securities in the enterprise, and to condemn an inhabitant to loss or charges for the ownership of an interest in a subject-matter wherein the state has no just public interest is distinctly to assert a proprietary claim over such person. Thus the principle of franchise taxation, both as respects domestic and foreign bodies, stands with and reinforces the doctrine of the just completeness of the private ownership of merely representative interests as hereinbefore set forth.

The impersonal character of the principle of franchise taxation as a claim belonging justly only to the jurisdiction under and by virtue of which the special privilege is exercised may be further illustrated by a consideration of certain kinds of privileges in a federally organized country. In the United States of America, for instance, patents and copyrights are matters of federal law. As these may be called special privileges under the law of the United States, it might be considered reasonable for the United States to make the continued existence or exercise of these powers conditional on the payment of some revenue charges. Many countries demand heavy annual payments to keep their patents alive, and the justification for such a policy must be sought in the theory that

<sup>10</sup>See an article in *The Law Quarterly Review* of London, for April, 1907, on the status of foreign corporations, by E. Hilton Young.

patents are special privileges under the law, but the theory equally requires that the public interest over the privilege must belong solely to the jurisdiction by which the privilege exists. Thus the federal government granting patents might be said to have a just ground of taxation therein, but not so the separate states of the Union, for the patent exists irrespective of state law, and the state has, therefore, no just interest therein. So, too, the principle requires that any government should refrain from taxing an inhabitant for the ownership of a foreign patent, for, although a privilege, it is so by virtue of another jurisdiction.

It is also to this principle of jurisdiction that it would be necessary to look for the justification of the recently proposed federal license for common carriers in interstate commerce, since interstate commerce is within the field of the federal government as paramount over the separate states. The point of jurisdiction marks the boundary of the possibility of a just public interest, but jurisdiction alone is not sufficient justification. It must be jurisdiction over a subject-matter which, by its nature, involves a public interest, and not a jurisdiction over the person in respect to subject-matters, regardless of the existence of the public interest; and just as land taxation finds and must find its justification in a public servitude over the land, so franchise taxation must and can find its justification in a public interest involved in the nature of the subject matter, and not in the assertion of servitude over persons.

## CHAPTER VI

### INCOMES IN RELATION TO TAXATION

We may divide private property interests into two general classes: first, interests in or over tangible things comprising on the one hand lands and on the other hand merchandise, the product of human labor; second, interests of a purely intangible character, comprising on the one hand such artificial things as franchises and on the other hand the many kinds of merely representative interests. In a certain sense, of course, all property rights are intangible, whether they relate to tangible or intangible subject-matters, but for convenience we may materialize the ideality and speak of the first class alone as tangible property and the second class as intangible. We have also seen, as heretofore set forth, that each of the above classes may be subdivided into two groups, one group comprising property over which there is a just public interest of taxation concurrent with the private ownership thereof, that is, lands in the first class and franchises in the second; and the other group comprising property over which the private interest is justly exclusive, for which, therefore, there is no just public interest of taxation on account of the ownership thereof, that is, merchandise in the first class and representative interests in the second. It also appears that the public interest of taxation, when it exists, is so only by virtue of the nature of the subject-matter, and not justly by virtue of any proprietary claim over the owner, so that while the existence of the public interest is essential to the just assertion of the tax in the one case, so the non-existence of the public interest in the other case requires that the owner shall not be personally taxed for such ownership, for such a tax in the absence of an antecedent public right in the subject-matter is a proprietary claim over such owner.

The occasion for taxation is, however, sometimes, in fact frequently, asserted, not on account of the mere fact of ownership, but on account of the benefit of ownership, that is to say, on account of the fact that a certain piece of property produces an income. We

must carefully discriminate, however, between a tax literally "on" a particular property, but measured by the income capacity of that property, and a tax on an owner because of income from that property. If, in regard to a particular subject-matter, as a piece of landed property for instance, the public interest of taxation justly exists, then the use of the income capacity of that property as the measure of the tax is merely a detail of policy. It may not be the best policy to assess land by its income rather than its capital value, but it is entirely within the scope of the public servitude of taxation over land thus to do, provided the tax is founded on the impersonal charge on the land and not on an asserted personal charge on the owner. So, too, it might possibly be well to consider income capacity in corporate franchise taxation, provided it is asserted under the public interest of taxation in the franchise and not as a servitude over the owner. But when we come to the case of a tax imposed on an owner because of the income of property, regardless of the existence of a public interest of taxation for the taxing government in or over the source from which the income is derived, we have a very different question; namely, whether a tax imposed on the owner of property because of the benefits of the ownership thereof, is the same as a tax imposed on the owner because of the ownership.

The question was discussed by the Supreme Court of the United States in the famous income tax cases in 1895, and formed the basis of the opinion of the majority of the court against the constitutionality of the federal income tax of 1894. The constitutional point turned on the technical question whether an income tax was a "direct tax," within the meaning of the American Constitution, as distinguished from "duties, imposts, and excises." The question of the directness of an income tax under the terms of any particular constitution is entirely immaterial to the present discussion of the justness of such a tax, but the question on which the legal point was based by the majority of the court is of illuminating value.

In reaching the conclusion in the first income tax case, that as to rentals, the tax was the same in result as a land tax and, therefore, direct, Chief Justice Fuller referred to Coke as follows (157 U. S. Reports, at page 580): "As, according to the feudal law, the whole beneficial interest in the land consisted in the right to take the rents and profits, the general rule has always been, in the

language of Coke, that if a man, seized of land in fee, by his deed granted to another the profits of those lands, to have and to hold to him and his heirs, and maketh livery *secundum formam chartae*, the whole land itself doth pass. For what is the land but the profits thereof?" And on the question before the court the Chief Justice said: "An annual tax upon the annual value or annual use of real estate appears to us the same in substance as an annual tax on the real estate, which would be paid out of the rent or income."

According to this doctrine of the majority of the court the imposition of an income tax for the rent of land is the assertion of the right to tax the land. It follows that just as the justification of land taxation must, according to these pages, be found, and in fact is found, in a public servitude of taxation over the land itself, and not in the assertion of a proprietary claim over the owner, so the imposition of a tax measured by the rental of land must rest on the public interest in the land and not on the assertion of a personal responsibility of the owner. The doctrine was carried still further by the court in the second income tax case and was applied generally to all property and the income thereof, whether the property is of such nature, as land, where a capital tax may rest on a public interest in the subject-matter and be, therefore, enforced impersonally against the property, or of such nature as in the case of personal securities that a capital tax must generally be a personal tax against the owner, so that in all cases the imposition of an income tax on the owner because of the benefits of ownership is in substance the same as the imposition of a tax because of the ownership. It follows that where the source of the income is property involving a just public interest of taxation for the taxing government, a tax on the owner for the income is open to the same objections as heretofore made against a personal system of land taxation as distinguished from an impersonal system, while in the case of property involving no just public interest of taxation an income tax on the owner is an attempt to do covertly that which ought not to be done openly. The following language of the Chief Justice for the majority of the court, in the second income tax case, is very comprehensive (158 U. S. Reports, at page 627):

"The constitution prohibits any direct tax, unless in proportion to numbers as ascertained by the census; and, in the light of the circumstances to which we have referred, is it not an evasion of

that prohibition to hold that a general unapportioned tax imposed upon all property owners as a body for or in respect of their property, is not direct, in the meaning of the constitution, because confined to the income therefrom?"

"Whatever the speculative views of political economists or revenue reformers may be, can it be properly held that the constitution, taken in its plain and obvious sense, and with due regard to the circumstances attending the formation of the government, authorizes a general unapportioned tax on the products of the farm and the rents of real estate, although imposed merely because of ownership and with no possible means of escape from payment, as belonging to a totally different class from that which includes the property from whence the income proceeds?

"There can be but one answer, unless the constitutional restriction is to be treated as utterly illusory and futile, and the object of its framers defeated. We find it impossible to hold that a fundamental requisition, deemed so important as to be enforced by two provisions, one affirmative and one negative, can be refined away by forced distinctions between that which gives value to property and the property itself.

"Nor can we perceive any ground why the same reasoning does not apply to capital in personality held for the purpose of income or ordinarily yielding income, and the income therefrom."

The income tax cases, as before said, turned on a technical point of constitutional law which might be decided either way without affecting the justness or the unjustness of an income tax, for the court was not dealing with such a question, but only with the meaning of the language of the constitution. But the reasoning of the Chief Justice on the preliminary point of identifying a tax imposed because of the benefit of ownership with a tax imposed because of ownership, seems to the present writer fundamentally essential, and, therefore, the condemnation or justification of an income tax in respect of property income must rest on the principles enunciated in the foregoing discussion of taxes on or on account of property itself.

It is obvious that an income tax is not literally "on" the income, for an income is not a distinct entity, but rather a description of the manifestation of the source from which it is derived as respects the person of the owner. In strict accuracy the net amount of

periodic income from a piece of property is not determined until all periodic charges incident to the ownership of that property are paid, and, therefore, if there is an income tax the net income is not determined before the payment of the tax, but only afterward, and that only is income to the owner which comes to him for his own use or remains after the tax is paid. An income tax, then, is not strictly "on the income," but is a personal tax on the owner on account of or because of the income from a certain source.

It is sometimes contended that a person's general income is a distinct entity, existing in itself without reference to any source of income and apart from the person receiving the income. It ought to be manifest that an income cannot be derived unless from a source in either property or labor and skill, and that it is an income as to a certain person because it comes into the hands of the recipient for his own use. If, then, the organized state, by its governmental instruments, asserts the claim to divert a person's income to its own uses at its own arbitrary choice, merely because that person has received so much income, such a state or government is thereby asserting a proprietary claim over such person for the disposition of his resources to the use of a master, unless the person in receiving the income is committing a reprehensible act by such receiving, or is thereby invading the antecedent rights of the state or some other person, natural or juridical, in, over or in respect to the source whence the income flows.

A man's "general income" is only a general descriptive term for a multitude of benefits combined in one group, but as a whole it consists of all its parts, and the income from any particular source does not lose its own characteristics by being described with other things. A general income tax is, therefore, a personal tax in respect of each and every item of source, from which the income derived is required by the law to be lumped in the general income, as well as if specified as a tax for each particular item of source in property or labor. This personal quality of an income, as a manifestation of the source in respect to the person, was emphasized by the Hon. George F. Edmunds in the course of his argument on the first income tax case, against the constitutionality of the statute, in the following passage (157 U. S. Reports, at page 486):

"A carriage is a thing which we have an idea of as a definite and complete thing, as distinguished from the personality of the

owner. Can you have any such idea about an income? I take it not. Therefore, whatever we may say as it respects a tax upon a thing which moves about as a physical object, it is a different idea and a different thing to the conception of a tax upon a person, and that is all this income tax is or professes to be—a tax upon a person, because of a particular circumstance inseparable from him. It is curious that in old English times, and in the law dictionaries, even since the constitution was formed, an income tax was described as a capitation tax imposed upon persons in consideration of the amount of their property and their profits." And on page 488 of the same case Mr. Edmunds describes an income tax as "a tax upon the person in respect of his income." Continuing (page 492), Mr. Edmunds makes the following characterization of an income tax:

"The income of a man is inseparable from him. It is as inseparable from a man as his character is, or his name. It is there. It is personal. It begins and ends with him. It was for that reason that I read the definitions in existence at the time this constitution was made as a capitation tax included an income tax. It is an inseparable quality, idea, entity that could not be grasped by the human mind otherwise than in connection with the person."

In fact, the personal quality of an income tax was admitted by the government in the course of the argument of the first income tax case by Assistant Attorney General Whitney, who (at page 473), in the following passage, seems to have sought to define the words "direct tax," under the constitution, as substantially meaning in reference to property an impersonal tax on a particular thing. "Direct taxes," said he, "by a more practical definition, would mean taxes falling directly upon the thing taxed and, at least primarily, collectible out of it. Familiar instances are poll taxes, and in many states land taxes chargeable only against the land and not a charge against its owner at all. An income tax is less direct than a carriage tax, which may be made to fall directly on the carriages by constraint; or even than an import duty upon goods, which are seizable for non-payment of the tax. It is not a tax upon property at all; it is a tax not on what a man now has, but on himself, measured by what he did have, although most of it he may have already spent."

Here we have the personal nature of an income tax stated in

the baldest terms by the advocate of the government as a step in his definition of the constitutional phrase "direct tax."

If the Assistant Attorney General's definition of the constitutional term "direct tax" had prevailed it would not have affected the general question of the justness of an income tax, but would itself have depended on the personal quality of an income tax. By such a definition of the words "direct tax," the constitutional clause which says, "No capitation, or other direct tax, shall be laid, unless in proportion to the census," would practically have been interpreted as if reading in the following manner, since a capitation tax or poll tax seems to be unquestionably a personal tax, namely, "No *personal* capitation, or other *impersonal* tax on *property*, shall be laid, unless in proportion to the census." This would have been a contradiction in terms, or else it would have been manifestly strange to require, aside from a poll tax, only an impersonal tax to be apportioned according to the number of persons, but the court, by a majority decision, held that an income tax for property income was a direct tax although personal, perhaps because personal, and declared the law unconstitutional.

The personal quality of an income tax may consequently be further examined in connection with its effect on the rights of the person affected in reference to the various sources of income and in reference to the person himself. Take the case of income from land. It is freely admitted herein that in assessing the land itself under the public servitude of taxation thereover, the use of the income capacity, or the "outcome" of the land, as a measure of the tax, is within the scope of the servitude, if at a particular time and place such a policy seems advisable. But the priority of the public servitude over the land implies that all the public revenue from a particular piece of landed property shall be levied under and by virtue of the public servitude and not distributively on the persons who own the property or hold security therein. If, then, the government, neglecting its primary interest over the land, in whole or in part, seeks to enforce a claim over the owner personally for the income, it is rejecting a sufficient basis for land revenue in favor of a less efficient procedure.

If, on the other hand, the government considers that the public servitude against the land has been enforced to as great an extent as is publicly expedient at a given time, and then proceeds to tax

the owner extraneously to the land on account of the income as a personal incident and benefit of ownership, it is doing under pretense what it refuses to confess, and is denying the right of the owner to all of the income that remains after answering the public servitude over the land. If, in addition to neglecting the public servitude over the land and pursuing the owner personally, the government graduates the tax according to the accident of the size of the owner's income, it is violating the fundamental basis of its public interest in the land by making the tax depend, not on the characteristics of the property itself, but on some extraneous personal incident of the owner, so that from the same land in different ownerships the government would claim a different amount of tax. Such a tax is not only in derogation of the right of the owner, but also in derogation of the real rights of the government itself.

Again, it often happens that the owner of a particular piece of landed property resides in a different jurisdiction from that where the land lies. Should the difference in residence from the jurisdiction of the land subject the owner to an additional tax? The taxing of the owner for the benefits of ownership is the same as taxing him for the ownership, and the justification of land taxation rests on the public servitude in the land, and not on a claim against the person. That public interest in the land necessarily belongs exclusively to the jurisdiction where the land lies, and not to the jurisdiction where the owner resides, so that the imposition of a tax on the owner for the benefits of the ownership of land outside of the jurisdiction is in derogation of the principle that the public interest of taxation in land belongs to the jurisdiction where the land lies, and such a tax is a denial of the right of an inhabitant to own and enjoy in his own right land which may lawfully belong to him in another jurisdiction under the laws thereof. Such a denial is also a claim by the government that the inhabitant must hold the benefit of his foreign land, not in his own right, but primarily in the right of the government where he lives, and is essentially the assertion of a proprietary claim by the government over such inhabitant.

The same principles are also applicable to the other great category of property involving justly a public interest of taxation, namely, franchises. Although the general practice of American states in levying franchise taxes out of a corporate enterprise is to seek first to establish, by some theory or other, a capital value of the

franchise, yet it may perhaps be that in relation to some kinds of franchises not of strictly local nature, it would be found advisable to measure the franchise by the amount of income which the enterprise as a whole is earning by the use of the franchise, over the current rate of interest, or by the amount of income which the enterprise is turning over to its creditors or security holders, as the "outcome" of the enterprise, on the theory that the use of the franchise imparts an additional facility of use to all the assets of the enterprise. But in using such a measure it should be carefully borne in mind that it is a measure of the public interest in the franchise as a whole, as a part of the entire enterprise in the hands of the body or corporation controlling the business, and not a measure for attacking the creditors or security holders personally for the purpose of depleting their interests distributively. Of course, if a sum of money is taken away from a corporation, there is just so much less to be distributed to the security holders in the aggregate, but if this is charged on the enterprise as a whole it is a part of the expense of running the business, and its effect on the security holders will, like any other expense, depend on the nature and priority of their securities under the contractual terms of their issue.

Now, just as the right of the government to land taxation rests on the public servitude of taxation in the land, and the existence of the public interest requires that all the public revenue from a particular piece of landed property must justly be levied under and by virtue of such public interest and not by extraneous or collateral attacks on the owner or distributively on the persons whose interests collectively make up the ownership, so in the case of a business enterprise employing a franchise which involves a public interest of taxation, that public interest is justly against the franchise as a part of the enterprise, and the existence of that public interest requires that all the public revenue which may be levied because of that franchise should justly be charged against the enterprise as a whole in the hands of its corporate or aggregate controllers and not distributively against the persons whose beneficial interests collectively make up the ultimate beneficial ownership. Therefore, if the government neglects its fundamental public interest over the franchise, and pursues the ultimate beneficial security holder for the benefits of his security as producing income, the government is

disregarding its primary interest in the subject-matter and relying on a pretended claim against the person, and, moreover, is ignoring an effective resource in favor of a defective procedure.

On the other hand, if the government considers that the enterprise as such has already been required to pay all that, under the circumstances of the time and place, the enterprise ought to be asked to endure, and then proceeds to tax the persons entitled to the ultimate benefits of the enterprise for their income therefrom, it is doing by stealth what it confesses to be wrong when done openly, and is denying the right of the ultimate benefit holder to all of the benefits that remain after the enterprise as such has satisfied all reasonable public charges against that enterprise as a part of the expense of the maintenance thereof. If, in addition to neglecting the public interest over the franchise employed by an enterprise, the government graduates the tax according to the accident of the size of the person's income, it is violating the fundamental basis of its public interest over the franchise by making the tax depend, not on the characteristic of the enterprise itself, but on some extraneous incident of the person entitled to the ultimate benefit, so that from the same enterprise the government would claim a different amount of tax, according to the accidental difference in the destination of the benefit. Such a tax, as well in the case of a franchise as in the case of land, is not only in derogation of the right of the person to his benefit, but also in derogation of the real rights of the government itself.

Again, it often happens in the case of an enterprise employing a franchise, as well as in the case of land, that the person entitled to the ultimate benefit resides in a different jurisdiction from that jurisdiction under which the franchise exists, and again the principles of franchise taxation forbid that the residence of the security holder in a different jurisdiction should result in any additional tax for the benefit of receiving income by his security. The fundamental basis for franchise taxation is the public interest in the franchise as a special privilege created or existing by the recognition of some organized state, and that public interest necessarily from the nature of the case belongs exclusively to the jurisdiction maintaining the special privilege, and not to the jurisdiction where some person entitled to some ultimate benefit after the expenses of the enterprise are paid may happen to reside. Therefore, the imposition of a tax on

such a person for the income or ultimate benefit of a franchise existing under another jurisdiction, is in derogation of the principle that the public interest of taxation over franchises belongs to the jurisdiction of the franchise, and such a tax is a denial of the right of an inhabitant to receive to his own use and enjoy in his own right the benefits which may lawfully flow to him from a franchise under another jurisdiction and the laws thereof. Such a denial is also a claim by the government that the inhabitant must hold his foreign benefit, not in his own right, but primarily in the right of the government where he lives, and is essentially the assertion of a proprietary claim over such inhabitant.

The same principle of jurisdiction requires that when a corporate enterprise employs franchise privileges in two jurisdictions it should not be taxed in one jurisdiction for the franchise which it enjoys in the other jurisdiction, nor in the second jurisdiction for the franchise in the first, but each jurisdiction should scrupulously limit itself to its public interest over its own franchises. Accordingly, if the income earned by the use of the franchise is taken as the measure of the franchise tax, the income which accrues under the foreign franchise should be excluded from the measure. For, if in any particular case a foreign franchise or special privilege of any kind should happen to be vested in a particular natural person, the only jurisdiction justly entitled to a tax by its public interest over the franchise would be the jurisdiction where the franchise or privilege exists, and not the jurisdiction of the residence of the owner, so that neither for the ownership nor for the benefits of ownership should such owner be made liable in his own jurisdiction, as that would be a denial of his right to the benefits of his foreign privilege, and the assertion of a proprietary claim over him to make him hold the benefits thereof primarily in right of the government.

Thus we see that in both the great categories of property involving justly a public interest of taxation, namely, lands and franchises, the use of the income capacity or "outcome" of the subject-matter is within the scope of such public interest for a measure of the enforcement thereof against the subject-matter, but not as a means of depleting the interests of the beneficiaries distributively; that this public interest belongs solely to the jurisdiction of the subject-matter, and that the use of the income capacity or "outcome" as a measure of such public interest likewise belongs

to the same jurisdiction exclusively. So that to assess personally the beneficiary of either lands or franchises for the income thereof to himself in the case of such property within the jurisdiction is to neglect the real interest of the government over the subject-matter, and in the case of such property out of the jurisdiction, is in derogation of the true basis of the public interest of taxation, is a denial of private right to the benefit of private property, and is, therefore, a servitude over the person of the private inhabitant.

We may perhaps now consider as respects income the position of the two great categories of property over which, as herein contended, there is justly no public interest of taxation for the ownership thereof, namely, first, merchandise as the product of human labor, and, second, merely representative interests or securities. Obviously the right to the ownership ought to draw with it the right to the benefits of ownership, and if these pages are sound in asserting that the private right over the products of labor and over representative interests is justly exclusive of any public interest of taxation for the ownership thereof, and if the doctrine of the majority of the Supreme Court is sound, that to require the payment of a tax for the benefits of ownership is the same as to require the payment of a tax for the mere fact of ownership, then the imposition of an income tax on a person, for the income from property not involving a public interest of taxation for itself, is a denial of private right; for the right to the benefits of an exclusive ownership is the right to all the benefits of ownership and not merely the right to so much of those benefits as may remain after a power external to the person has satisfied itself for its extraneous demands in the absence of any compromising or reprehensible conduct by the owner.

Take the case of merchandise, the product of human labor, for instance. The right of the producer to the whole of his product remaining after paying the expenses of production, including therein the payment for the use of the land needed in such production, both as respects the private interest of the landowner and the public servitude of taxation in the land, is the foundation of the exclusiveness and completeness of the private interest in merchandise as produced by human labor, whether that merchandise is in the hands of the original producer or in the hands of a purchaser; for the right of the producer to the whole involves the right to transfer

as large an interest to the purchaser in order that the producer may obtain the full equivalent and benefit of his entire ownership.

The exclusive private right in the ownership of this species of property implies also the exclusive private use. We are not speaking here of any attempted use which may encroach on the pre-existing rights of others. Against such an attempted use restraint may undoubtedly be employed with justice. Nor are we speaking of any particular use which requires the employment of a special privilege under the law. For the employment of a special privilege the law, as heretofore said, may justly impose conditions of some kind. What we are speaking of is simply the private use unconnected with the rights of others or with any special privilege, as, for instance, to eat the crops which one has raised, to wear the clothes which one has made, or to keep one's products as a provision for future needs. Such a simple dissociated use is one of the necessary qualities or incidents of ownership, one of the veritable ingredients of property, the fundamental benefit and purpose of property; for, to paraphrase Coke, what is property but the use thereof. If, now, the owner entitled to the use of property sees fit to forego or postpone the primary use of the property by himself and to permit its use for a time by another in return for a compensation, the full unqualified right to the primary use implies an equally full and unqualified right to the compensation, as a secondary use of the property.

The principle is the same whether the owner receives his compensation once and for all as to any particular article or in periodic instalments, for in either case it is compensation for the deferred enjoyment of that use to which he is fully entitled. It follows, therefore, that just as in the case of land, the owner is justly entitled to all of the income remaining after satisfying the just public servitude of taxation in the land, so in the case of merchandise, in which, as the product of human labor, there is no just public interest of taxation, the owner is justly entitled to all of the income therefrom without any deduction or counter penalty whatever imposed by reason of the mere fact of such income as a benefit of ownership. To impose a tax upon the owner of the products of labor because of the receipt of income from such property is, therefore, to assert a public interest where none exists in the subject-matter and is a denial of the exclusive right of the owner in the

property from which the income is derived. Such a denial is, therefore, the establishment of a servitude over such owner.

But comparatively only a small proportion of property income flows from the mere compensation for the use of tangible movable products. The great mass of personal property paying income is of the intangible class and consists of merely representative interests or claims for ultimate compensation out of some particular property, business, or enterprise, or for some service or benefit to some person who has entered into contractual relations as to the compensation therefor in the nature of a debt or a share in an undertaking. These representative interests or securities are the claims of the holders for some ultimate compensation or benefit, and the periodic income therefrom is the periodic compensation for the postponement of the ultimate enjoyment of the capital claim represented. Now, it is obvious that the current value of a representative security depends on the assumption of value in the entity or enterprise by which it is supposed to be secured, and with this principle is connected the doctrine herein asserted that the private right in the ownership of representative interests excludes any public interest of taxation imposed distributively on the owners for the ownership thereof to the depletion of their private interest therein. So far as the entity or enterprise embodies the use of land or franchises involving justly a public interest of taxation such use must necessarily be subject to answering the reasonable charges of such public interest as part of the expenses of the enterprise, but equally does it follow that after fully discharging for any particular period the charges of the public interest of taxation over such of the assets as involve such public interest the whole of the balance of the earnings for that period belongs to the uses of the enterprise and its beneficial owners, to be distributed by or among them according to the terms of their several contractual claims against the enterprise as respects amount, time and priority. Hence the imposition of an income tax on the security holders because of income received as periodic compensation for the postponement of the enjoyment of their ultimate capital claims is a denial of the exclusive right to the periodic benefits of an exclusive ultimate right, for it amounts to saying that after the enterprise has paid all that is justly chargeable against it by the public interest of taxation, those beneficially entitled to the balance may be required to pay for receiving that to which they are fully entitled.

The principle applies not merely to the interests of those who hold the gross or uncertain claims to the residue of profits after the payment of expenses, but also to the interests of those who hold simply claims in the nature of debts for certain amounts or limited prior charges with a fixed and limited periodic compensation in the nature of interest or a net income. If such claims in any particular case have any market value, it is because of some supposed value in the entity or undertaking by which they are secured or in the credit of the debtor who has assumed the obligation. Such claims must obviously be realized out of the proceeds of the undertaking or the property of the debtor, and from an economic point of view are just as truly embarked in the undertaking or constitute a part of the ultimate right in the property of the enterprise or debtor as if they were generally uncertain shares instead of certain charges. In the case of debts, as well as in the case of shares, they are claims for ultimate compensation out of the subject-matter to which they must look for value, and the periodic income which they carry is the periodic compensation for the postponement of the ultimate enjoyment of the capital sum represented by the current value of the claim.

If the holder of funds for investment does not wish to embark generally in the hazards of an enterprise for the purpose of receiving the uncertain general returns of the enterprise, but wishes rather to embark only so much capital as he considers likely to be certain of a return, and if, foregoing the general chance of fortuitous gain, he prefers to have a prior claim for a fixed amount at interest for a certain time, or a prior claim for a fixed income, such interest or fixed income is simply the periodic compensation for the postponement of the enjoyment of his capital investment. It is all the more surely mere compensation from the fact that it is fixed to a maximum amount, since this fixing in one direction implies that it should be considered as fixed in the other direction, and that as the recipient by his contract cannot demand more so, too, he should not be put off with less, but that he is justly entitled to each and every part thereof to his own use. The private right to merely representative interests against an enterprise is justly entire and exclusive because they are claims for compensation to which the holder is justly entitled in full for property or services, real or assumed, in the enterprise or entity, and since such claims derive

their market value from their reliance on a source which, so far as it involves justly a public interest of taxation, like land, must respond to that taxation in the proper jurisdiction, and so far as it involves justly no such public interest of taxation, like merchandise, the product of human labor, ought not to be made covertly the occasion for a tax, therefore, the private right to the income from representative interests should be considered entire and exclusive as the periodic compensation for the postponement of the enjoyment of an ultimate compensation to which the private right of ownership is justly exclusive, whether such income is gross as the uncertain dividends from general shares, or is net as interest on a debt or a fixed and limited prior charge.

Take the case of a simple unsecured debt. It is not a tangible thing in itself. It is merely an intangible claim to an ultimate benefit, even if evidenced by a tangible document. It represents an expectation of value to which a claim is asserted. If the claim is justly valid, then the right to which the creditor is justly entitled is the whole claim, according to the terms of the transactions by which it arises, and we have therefrom the principle herein asserted as to the exclusiveness of the private right of ownership over merely representative interests. The consideration, cause, or occasion for the debt may be the sale of some species of property or the rendering of some service of employment in connection with the transaction, and the debt created represents the compensation.

If the consideration is merely nominal, the debt represents a claim none the less to a benefit out of the general property of the debtor. In any event, it represents a compensation to the creditor for value or a benefit by grant of the debtor, and such compensation or benefit in effect constitutes part of the private interest in the enterprise or property to which it must look for fulfilment. So far as such enterprise or property is of a nature to involve a public interest of taxation that enterprise or property should answer in the appropriate jurisdiction, but only to that extent. As the debts chargeable must look to the private interest in the property or enterprise, the whole of any debt may be considered as falling within the sole field of private right, and the right of the creditor to the whole debt is, therefore, justly exclusive of any public right of taxation. Now, since the periodic interest accruing on a debt represents the compensation for the postponement of the enjoyment

of the ultimate compensation or benefit to which the creditor's right is exclusive, such periodic interest should equally be exclusive of any public claim of taxation for the receipt thereof. The imposition of an income tax on the creditor for the receipt of interest on his debt is, therefore, a denial of his complete right to the whole periodic compensation for the postponement of the enjoyment of an ultimate compensation or benefit to which he is in full justice completely and exclusively entitled. It is a proprietary claim by the state over the creditor in that it spontaneously, for the benefit of the state, requires the creditor to receive primarily in right of the state, a benefit to which he is entitled in his own right, and is thus the establishment of a servitude over the person.

The principle is the same if the debt is secured by the pledge or mortgage of some specific piece of property, for then the security of the debt is simply pointed out as a prior charge on the private right to such property, and as such prior charge it becomes a part of the total private title to the property. If the specific property is of such character that the private right should justly be considered exclusive, such exclusiveness should not be lessened by the apportionment of the totality among two or more by priority. On the other hand, if the property is of such a nature as involves justly a public right of taxation therein, as, for instance, land, then the priority as part of the private title is equally assisting to maintain taxation over the entity as a whole, as well as if the private title were held in one right instead of several consecutively. In either case, of security, as well as in the case of an unsecured debt, the accruing interest represents compensation for the postponement of a justly exclusive enjoyment, and is itself justly exclusive, so that the imposition of a tax for the receipt of interest from a debt secured by property over which the taxing government has no just claim of taxation is the imposition of a tax covertly where there should justly be none openly, as the denial of the exclusiveness of the creditor's right to his claim and the security; while the imposition of such a tax where the security itself involves a just right of taxation is the imposition of a tax in addition to the limits of such public right. In either case it is a denial of right to the creditor and a derogation from the principles on which the government must base its just right of taxation over certain subject-matters, since it is the establishment of a servitude over the person rather than the thing.

The same principles seem also applicable to the consideration of gains received from the sale of property at an advance over the price of purchase. This is another method of enjoying the advantageous ownership of property aside from the mere rental for the use of property or the postponement of the enjoyment of an ultimate benefit for a periodic compensation. In the case of a sale at an advanced price, if the property is of such a nature that it involves justly a public right of taxation, as land, it ought to be obvious that all advantages in the value of the private title, aside from the public right itself over the property, should belong to the owner of the private title. If he exchanges his title for a price, the whole of the price should belong to him, regardless of the fact whether or not that price is more than the price at which he obtained it, for the existence of the public right of taxation over a particular kind of property rests justly on the nature of the property itself, and not on the collateral personal accidents or situations of the owner, while the risk of loss by depreciation or accident during the holding of the property implies that the chance of gain should go with it. Moreover, if the advance price represents a permanent increase in value, such value will proportionately increase the value of the public interest therein, whether the owner sells the property or not. The fact of sale is a mere personal incident which occurs entirely apart from the public interest of taxation over the land, and the gain from such a sale is merely a comparison with another previous personal incident. On the other hand, if the property sold is of a kind not justly involving in itself a public right of taxation in reduction of the exclusiveness of the private right over such property, then the benefit of the sale should also be exclusive, as it represents the equivalent for an exclusive right. In either kind of property the fact of the sale depends somewhat on the owner's private judgment, so that the levying of a tax upon him for making a gain by that judgment is not merely a tax on account of a mere personal incident in the ownership of property, but a tax for using his judgment advantageously, and, therefore, implies a proprietary claim by the government over such owner as an assertion that a man is not justly entitled to the benefits of his own good judgment.

Now, the drawing of gain from the judicious exercise of one's judgment is only one manifestation of a general class of gains which may be grouped under the general head of gains from the

person's own efforts, as the reward or compensation for the labor of his muscles, the skill of his hands, or his intelligence in conducting affairs. If there is any class of gain to which a man may justly claim to be entitled, surely it is the gain from his own labor, skill, and intelligence. Such a right is the fundamental inducement to efficient labor and industry of every sort. It is the recognition of the man's own life. Of course, it must be assumed that we are not considering the case of a man who is using his labor, skill and intelligence to undermine or destroy the rights of others, as the burglar or the swindler, but are considering only the case of a man who, without encroaching or wishing to encroach on the rights of others, is seeking an economic purpose in peaceful industry. Of him we may confidently assert that whatever disposition should be made of his gains from property or special privileges, or industries of some public character, so much of his gain as is attributable to his peaceful industry by labor, skill or intelligence, justly belongs to him entirely, to his own sole use and benefit as a matter of right and justice. If now the organized state assumes to interfere with a man and require him to pay a penalty for the reason that he has by his own efforts acquired some gain, it is in effect arbitrarily diverting his own life away from himself in denying his right to the compensation for his own efforts. Such an exaction is essentially an appropriation of the man's labor, skill and intelligence, and is the imposition of a servitude upon him. The principle is the same whether the person is in business for himself and is reaping the uncertain rewards of his general industry, or has hired his efforts out for a compensation stipulated in advance. In either case his right to his own life should carry an exclusive right to the earnings of his life's efforts.

It may, perhaps, be objected that the state, in exacting a charge for a man's personal earnings, is only asking compensation for the protection afforded him by maintaining a peaceful condition of society for the pursuit of peaceful industry, but does not the suggestion that the state may exact compensation for preserving the peace for any particular person or class of persons imply that it may equally withdraw protection from that person or class until its own arbitrary terms are fulfilled? Is not this essentially a feudalistic conception that the state is, in its own discretion, furnishing protection in consideration of base subjection and servitude?

The more equitable and scientific view is that the very function of the state, the very reason and justification of its existence as a juridical person, is to furnish protection to all the peaceful inhabitants, regardless of their prosperity or poverty, and that this is a duty to be performed, not a commodity to be bartered out for terms imposed on the persons who are entitled to the performance of the duty. In short, that the pursuit of peaceful industry in a peaceful community and the enjoyment of the fruits thereof is a right and not a special privilege, and that the duty of protecting that right is the basis and justification for the existence of a public right of taxation over certain kinds of property having a public interest by their nature, and is not the justification for the imposition of a servitude upon the particular inhabitants, which servitude is veritably imposed when the private person is required by the external force of a superior power to suffer a penalty for the compensation of his own labors, either of muscle, hand or brain. Yet this is precisely what an income tax does in respect to the earnings of the private citizen, and in so doing requires him at the extraneous demand of the state to hold the proceeds of his own exertions, not primarily in his own right, but in the right of the state which imposes the servitude on him.

It makes no difference whether the charge of the state is large or small in proportion to the earnings for which the charge is levied. The servitude consists in the determination by an extraneous power, for its own benefit, how much of a man's earnings for his personal efforts he shall be permitted to retain for his own enjoyment, for it cannot be pretended that so much as is taken away from him or for which he must pay over a counter-penalty merely on account of its acquisition is enjoyed by him. The claim to interfere and take a part arbitrarily determined by the taker without a preexisting right in the source of income itself is no less than a claim to take the whole whenever the taker in its own discretion may choose to do so. This is essentially and inevitably a proprietary claim over the earner in respect to his earnings.

The fundamental vice of a personal income tax is the servitude which it imposes on persons regardless of any just public interest of taxation over the source of the income. The taxing of a person for the income from a certain source, whether particularly or as a part of the person's general income, is the same as taxing the

person for his title to the source. If such source is of a nature like land and franchises within the jurisdiction, and justly involving a public interest of taxation, the attack on the person is a servitude in neglect of the true public interest; while if the source is one in which the taxing government has justly no public interest of taxation, then the attack on the person is an encroachment on his exclusive right, implies a proprietary claim over him to require him to hold the source and the income therefrom, not in his own right, to which he is justly entitled, but primarily in the right of his master and proprietor, the state, and thereby imposes a servitude on the person in utter defiance of right.

It cannot be too strongly emphasized that an income is not a special privilege in itself, but merely the manifestation of a source in respect to a particular person. It is, therefore, not justly a source of public revenue apart from the source of the income, but the income and the source thereof are one and the same when economically considered as a source of taxes. The connection between income and source is used by the British income tax acts as the basis of a system of "stoppage at source." Those acts contain elaborate provisions requiring persons and institutions having charge of the payment of incomes from investments to withhold the amount of the tax and hand it over to the public authorities, so that so much of the nominal income never comes to the theoretic recipient at all. The law even goes so far as to prohibit the making of contracts for a net income of an exact and irreducible amount without any deduction. The income tax law of Great Britain in one section declares that "all contracts, covenants and agreements made or entered into, or to be made or entered into, for payment of any interest, rent or other annual payment aforesaid, in full, without allowing such deduction as aforesaid, shall be utterly void." The logical basis of such a provision seems to be that after the owner of property or funds has agreed on the compensation to which he is to be entitled for the use thereof, he must hold that compensation primarily to the use of the government and take his chances as to the amount which may be left for himself, and that he has no right to an exact stipulated return for himself, even if he provides fully for the government tax out of some other element of the transaction, as by the agreement of the debtor to pay the tax.

It is at least extremely doubtful whether such a provision can

accomplish anything more than to import an element of doubt into the contract of loan and to throw the principal burden of that doubt on the borrower, by increasing the nominal amount of the interest charged by enough to offset the probable deduction for the tax. The experience of New York and other states with mortgage taxation seems to show that any effective provision for imposing a special tax for the existence of a debt falls principally on the borrower by an increase in the interest rates, and the same principle would naturally tend to operate with even a small tax for the income, as well as with a large tax for the capital, although the effect might not be so clearly visible; but the claim of a government that a man should lend his money as if there were no tax and then divert a portion of the compensation from himself is essentially a proprietary claim over the man in denying his right to the compensation for the use of his funds.

The system of stopping at source is at once a confession that a mere claim against the individual recipients is an ineffective basis of collection, and is also an admission that any just claim of the government to deal with the income from an enterprise should seek the enterprise itself and not the ultimate beneficiaries, that the claim of the government when justly founded is to be based on some public interest involved therein, and not on a proprietary claim over persons. The system of stopping at source is, therefore, in some of its practical aspects, analogous to a franchise tax, or in the case of rents, a land tax, although it does not necessarily follow that all stoppages, as, for instance, from interest on loans or mortgages, would be justified under either of those headings. The analogy consists in this, that the sums collected by stoppage, equally with sums taken by a franchise tax against an enterprise, are taken from the enterprise in the hands of its managers as a condition of doing business, and the apportionment of such sums to individual income accounts is merely a bookkeeping device which cannot, whether it is called one thing or the other, differently affect the position of the nominal beneficiary who in either case gets merely something that is left after the government has satisfied its charges against the enterprise.

The investment value of a security will naturally be substantially the same whether the sum collected from the enterprise is called a tax against the enterprise as a part of its running expenses,

reducing the amount available for distribution among its ultimate security holders, or is called an income tax taken out of a nominal apportionment of dividends and interest to the security holders, with this difference, that in the case of interest or nominally fixed returns, the fixing is only at a maximum and the creditor is not assured of a certain net income. The natural result would seem to be that the enterprise in selling its securities of indebtedness would realize a lower price for its paper than it would if it were allowed to guarantee an exact return to the investor to his own use, for it cannot be supposed that an investor will give the same price for a security when the nominal income is liable to be partially diverted from him, as he would give for the same security carrying a clean irreducible income, and thus the lowering of the price of the security by means of an income tax seems to fall on the enterprise as well as if it were openly a franchise tax.

Whether any particular instance of an income tax by stoppage at source can be identified in effect with a justifiable franchise tax against a certain enterprise, or any other kind of a tax against the enterprise by reason of some special privilege enjoyed or some public interest involved in the subject-matter must, of course, depend on the circumstances of each case. Perhaps, however, the analogy between a franchise tax and stoppage at source would make a federal franchise tax a reasonable substitute for a federal income tax which so many persons are eager to establish, as it might perhaps operate as an excise against privileges conferred by law rather than as a direct tax against persons, and it would accomplish in a better manner all for which the advocates of an income tax have any ground of complaint, in that it would reach those aggregations of privilege at headquarters rather than the private investor personally. Many of these great enterprises which excite so much suspicion at the present time are necessarily involved in the employment of some important federal privilege, and to that extent at least a federal tax for franchise or license would be obviously justified. Whether the federal government should or could go further and attack the merely state franchises under its general constitutional powers is a somewhat different question, but if it should not or could not attack those sources of income, that would be all the more reason for not imposing a servitude on the recipients of income from sources not properly within federal jurisdiction.

In other words, in the case of the federal government, as well as in the case of any government, so far as the source of the income is justly within the jurisdiction and involves justly a public interest of taxation, that source is the proper point at which to assert the tax, while the absence of such a just public interest of taxation over the source equally forbids any claim to the benefit of that source or to impose a servitude upon the recipient of the benefits and deny him the right to those benefits to his own use.

The imposition of a personal income tax is in itself the assertion of a proprietary claim over the person in respect to the disposition of his resources primarily not for himself, but for a master at that master's discretion, and is a penalty on him for the attempt to enjoy the benefits of his property, labor and skill, since it is imposed without regard to the question of the existence of a just public interest over some sources of income and the absence of any such public interest over other sources. It implies the claim to penalize to the full extent of his income equally as well as for an arbitrary fraction extraneously determined. It is thus a servitude over the person by seeking to divert the just incidents of his own life to the wilful determination of a master for that master's benefit, regardless of antecedent right. The method of administration, moreover, necessarily emphasizes this essential servitude of the system, for it requires a searching inquisitorial investigation into the affairs of the private person or an arbitrary decree against him. Such an inquisition or decree at the spontaneous demand of the investigating power, merely for its own benefit under a claim created by itself, and not for the protection of threatened antecedent rights, implies the denial of any right for a person to have any business which he can call his own for his own benefit, either in the use of his property or his labor and skill, and in the requirement that a man shall account for his own life to the arbitrary demand of the government, such an inquisition or decree is in itself the manifestation of servitude over the person by that government.

The words of George F. Edmunds, in the course of his argument on the constitutionality of the federal income tax (157 U. S. Reports, at page 485), are applicable in principle to any personal income tax, whether constitutional or not in any particular jurisdiction. Said he: "Here is a statute which declares that a particular officer of the government and his deputies . . . may

compel every citizen . . . to make a report to him answering a series of questions under authority of this act . . . which invade every item of his private transactions, and affect the interests of everybody with whom he has been in connection, in situations of trust of the most sacred confidence, . . . and compel him to expose everything to the satisfaction of this agent of the law, as he is called. And if he does not do it, when then? Then this so-called agent of the law is to make up his mind, from such inquiries as he chooses to make, how much this man's income really is."

Can such a situation denying the right to have any business which a man can call his own or enjoy any benefit of his property or efforts in his own right be described as anything less than servitude? Can a system which demands an accounting for every compensation for one's property or labors, not because that compensation is excessive or in violation of an antecedent right, but merely because it comes to a private person,—which imposes a penalty on the person for presuming to obtain that compensation,—can such a system logically rest on any other basis than a proprietary claim by the state or government over that person and the imposition of a servitude on him? Rather may we say that the establishment and maintenance of such a system is fundamental tyranny and unqualified iniquity, and is utterly inconsistent with the principles of freedom and justice.

## CHAPTER VII

### THE RESTORATION OF FEUDAL BONDAGE.

It is a strange phenomenon that peoples so tenacious of personal freedom as the English and the Americans should tolerate the various systems in vogue for taxing persons in respect to personal property owned or income received by the person with the necessity for inquisitorial investigation into private affairs, the denial of private right, and the consequent servitude imposed on persons. This phenomenon is perhaps to be attributed to a subconscious survival of the old feudalistic conceptions from which the society, the structure, and the politics of English and American civilization are historically derived. But not only do the English and American peoples tolerate these systems of servitude. On the contrary, there seems a strong popular desire in many quarters to make these systems more stringent and drastic, and even to evolve other methods of attacking the ownership of property, not on the basis of some just public quality in the property itself, but on account of some personal incident in the ownership, so that in effect some of the old feudal impositions under modern names are revived with the utmost eagerness by the very classes which were most cruelly oppressed in feudal times.

Twice within a half century has the government of the United States of America imposed stamp taxes on deeds and other instruments of transfer, and recently the State of New York has imposed such taxes on the assignment of stock certificates for the sale of stock in corporations. What are these charges in effect but the old feudal fines on alienation, or the denial of any right in the owner of property to transfer his title except by permission of a superior who for his own benefit restrains the transactions and exacts a compensation for his permission? Under the feudal tenure of land such fines on alienation had a logical basis of origin, since the title was originally granted to a particular person to be held of the lord by the service of the tenant, who was bound to respond for

those services till released by the lord. The tenant held a mere tenancy in the land and was not originally entitled to convey it except by surrendering it into the hands of the lord and obtaining his acceptance of the new tenant. As the lord had the original right to reject the new tenant, and the alienation was in the nature of a favor, the imposition of a charge for license to alienate was logically derived from the tenure and symbolized that tenure, even after the fine had acquired the character of a customary charge for which the lord must grant license as a matter of law.

The idea of an allodial title or the outright ownership of the private interest in property, whether or not that property from its nature involves a public interest or servitude of taxation over the property itself, implies no such interference with the owner on account of a merely personal incident of the ownership, but the existence of a perpetual private title with the right to transfer the same and the right to the whole equivalent without arbitrary restraint. Undoubtedly the organized state under its protective and tutelary dominion has the right to provide regular and reasonable machinery for the security of the transfer of titles, as by the recording of instruments, and a charge for that service rendered is not necessarily within the objection of a fine for alienation, but when the government at its own motion and for its own benefit interferes with the private title and imposes a charge, not for a public interest in the kind of property, or for service rendered, but merely for a personal incident or accident affecting some particular title or piece of property, the government is in effect asserting a species of feudal tenure and establishing a class of collateral incidents or casualties, such as afflicted the holders of property under the old feudal régime.

Such incidents or casualties rested logically on the feudal theory of holding of a superior or lord who retained an estate of superiority or lordship in support of the casualties, but they are entirely at variance with the idea of an allodial title or individual private ownership in one's own right, whether in lands or movables, for such title or ownership is in theory a perpetual interest in private hands, is entirely distinct from, though subject to, any public charge, interest, or servitude, over the particular kind of property itself, and implies the right to transfer as large an interest as the owner has, and to enjoy the full equivalent from the transfer, as a

part of the complete enjoyment of the title. If the property is of such nature, as land, that it involves a public interest of taxation prior to the private interest of title, the title is of course subject to the public interest in the hands of one owner as well as in the hands of another, and the transfer is, therefore, immaterial to the security of the public interest, and is solely a matter of private right under the private title. An interference with this right of transfer, not for the general security of transfer, but for the benefit of the government is, therefore, in effect a derogation from the right of allodial titles or private ownership, implies the assertion of an estate of superiority and is in effect the establishment of a species of feudal tenure imposing a burden on the owner in respect of some personal incident of his ownership. This is indirectly the imposition of a servitude upon him by encroaching on a right to which he is entitled.

Among the incidents of the feudal tenure in England were *reliefs* and *primer seisin*. *Relief* was a payment exacted by the lord of the fee for admitting the heir of the tenant into the inheritance, and was so called because the heir was considered as relieving or taking up the estate. *Primer seisin* was a similar charge, being a whole year's profits exacted from the heir to an estate held of the king immediately in chief. Both of these incidents resulted logically from the original feudal theory of a tenancy which at the death of the tenant reverted to the lord of the fee, to be regranted as the lord chose. As the new grant was originally in the nature of a favor to be given or withheld at pleasure, the tenancy was in effect merely for life, and the heir could claim only by the favor of the lord on complying with his terms. When the tenure became hereditary the feudal theory still maintained the necessity of recognition by the lord of the fee, and allowed the exaction of a charge for that recognition. The lord, however, was required to admit the heir if he complied with the legal terms. As a result, the heir did not have in the original feudal conception a direct claim to the property, but rather a right to repurchase it from the lord of the fee on complying with the rules of the tenure. Thus these incidents or casualties of tenure were the logical outgrowth of the feudal theory of carving the estate of the tenant out of the larger estate of the lord and leaving in the lord a reversionary estate of superiority over the land and the tenant.

On the other hand, an allodial title, or the complete private ownership of all the private title to which a certain piece of property may be by its nature adaptable, whether or not that title may be subject to some public interest involved, implies no tenure of an estate held of a superior, and equally implies no incidents and casualties arising from the personal conditions of the holder of such title, since such incidents and casualties fundamentally depend upon the existence of an estate of superiority in the superior of whom a feudal title is held. The establishment of casualties by the government in respect to a title hitherto allodial or outright would be, therefore, in effect the establishment of an estate of superiority in such property in derogation of the prior existing titles, and the establishment of new casualties over a title already feudal would be in effect the enlargement of the estate of superiority in such property and in like manner a derogation from the prior existing estate of the tenant. In thus reducing an existing title from a higher to a lower, and privately less beneficial rank, the government would be imposing a servitude on the owner of the property in requiring him to render service or compensation for that to which he is already entitled by prior right.

This is exactly the situation which is created by the various laws for the imposition of inheritance taxes, or public charges for the succession to property at the death of some person in interest, unless there is some public interest involved in such succession in a way to distinguish the charge from its resemblance to the old feudal casualties. This resemblance appears in the provisions refusing to recognize the title of the successor as legally valid to the entire interest nominally involved and charging that title with a lien for the public demand, or ordering the executor, administrator, trustee, or other fiduciary person in possession of the property to withhold it from the beneficiary or to divert from it when it is a pecuniary fund the amount of the public charge for the succession, so that the beneficiary gets merely the remnant of the fund to his own use. These provisions are further supplemented as a rule by imposing a personal liability on some person entitled to deal with the property for dealing with it in disregard of the public claim, so that the title to the property and the dealing with it are treated, not as matters of private right, but as if a matter of tenure under a superior by virtue of the license and permission of such superior, or as if

subject to some prior public right essentially involved in the fact of the succession at death. It, therefore, becomes important to examine the extent of public and private rights which may be justly comprised in such succession. This may be considered under the three points of view, the right to receive, the right to bestow, and the power to make a will.

It is commonly asserted by the courts that the succession to property, either by intestacy, will, or deed to take effect at death, is not a matter of natural right, but a special privilege conferred by law. If it is merely a special privilege, it seems to follow that the organized state may grant or withhold the privilege in whole or in part in its own sole discretion or may justly confer it on any person or class of persons regardless of relationship to the deceased or his wishes as to the disposition of the property. Such a doctrine seems to rest on viewing the human being as a totally dissociated juridical phenomenon, so that at his death no natural person can have any just interest in his affairs, and the organized state with which he happened to be associated by citizenship, residence or the situation of his property becomes entitled to his estate as property belonging to no private owner or just claimant until the state confers it on some one as a favor. Such a view disregards the most vital elements of human life, for man is not a mere stone image inspired by the state, but is endowed with an individuality and with various human relationships much more intimate than his mere juridical recognition by the state. These human relationships reach their most intimate point in the human family, which, in its theoretical perfection, is the opportunity and field for the most helpful mutual relations, and what can be more just and natural than that at the decease of a member of a family the family itself has the right to the property of which he has made no disposition.

This family right seems to be recognized to a degree in all civilized states. Is it any accident that, aside from creditors and public claims, the immediate relatives in various ways are generally treated as entitled to some interest in the estate of a deceased person? Is this a mere favor or is it a recognition of some fundamental right? It is undoubtedly true that no particular person can claim in his own right any particular portion of the property of a deceased person unless he can show himself within the terms of some positive law, but it does not follow that because the state

might conceivably have pointed out some other disposition, the state might justly refuse to make any private disposition of the property whatever, and appropriate it to itself, yet that is exactly what the state does as to so much of any nominal share of an estate or fund as the government diverts from the nominal beneficiary.

A human being comes into this world helpless and dependent. In the normal and general case he finds himself in the midst of a group of persons constituting a family and having more or less definite interests in common as a family. This group is for some interests narrower and for other general interests broader, but in general the bond of union is the relationship by blood. To this group the human being naturally looks for much of the development of his life, and each member of the group has a more or less definite feeling that in an emergency he may look to the others for somewhat more of assistance than to a mere outsider. From this claim of mutual regard and benevolence the group in turn may look to each member for some part in the mutual well being, and if one of the group leaves property of which he has made no disposition, though the extent of the right of disposition is a further question, the group as a whole and all members of it logically have a right to require that such property shall be in some way applied within the group of relatives of the deceased, as those who would have been justified in receiving aid in the lifetime of the deceased and might have felt bound to assist him in need. In other words, the right of the members of a family to receive aid from one of their number by his benevolence during life should not be considered as lessened, but as increased, by the fact that he has left property for which he has made no disposition, and the family right may, therefore, be said to consist of this, that after all just rights and powers of the individual owner of property have been exhausted, there is a secondary right in favor of the family to require that in some way the property shall be used for the benefit of some one or more among those who in his life had a more intimate claim to his good will and a more intimate interest in his good standing than the generality of the world.

Now, where the line shall be drawn between the primary individual right of the living owner and the secondary successional right of the family, is an entirely different question, and it may perhaps not be the same at all times and places, but it seems logically

necessary to say that where one leaves off the other begins, and that the succession to intestate property within the family is not primarily by virtue of a lapse of the private title and its regrant by the state, but that the family right of succession is itself a part of the private right in a perpetual private title not otherwise limited by the terms of its creation and extends to the whole of that title. At this point the action of the state through positive law becomes necessary to apportion the various relationships of family life into a series of priorities in the family succession to the property of the deceased, but this intervention of the state does not justly lessen the sum total of the family succession. It merely establishes general rules for the priority of certain persons or classes of persons within the field of the family relationship, and these take justly, not by favor, but by right of the family. In other words, the action of the state is semi-judicial in the nature of apportioning a sum total to or among one or more possible claimants, and is justified under the general protective and tutelary public powers.

The family right is residuary as a part of the private right to the private title and is subsidiary to the individual right of the living owner. The function of the state is to adjust the balance between these two component parts of the private right and to apportion the family right among such successive classes of the family group as under general conditions may seem to be most directly interested. Accordingly, the different rules of succession in different states signify not the arbitrary distribution of special favors which might equally justly be given to any person or group of persons, but simply the different emphasis which seems to exist in different communities between the members of a group within which in some manner the persons to be preferred must justly be found. Likewise the exclusion of one member or class of members of the group must justly rest upon the selection of some other class as under general conditions better representative of the family right, rather than upon the intrusion of an outside power at its own option to exclude each and every class of the family from some arbitrarily determined portion of the succession; for the claim of the state to exclude for its own benefit all the family from some portion decreed by the state itself logically means the claim of the state to make that portion indefinitely large and ultimately to seize the whole, to the total exclusion of the family, and the complete denial of the family right.

Succession by intestacy as a part of the private right to a perpetual private title, therefore, applies to the whole of that title, and not merely to the remnant which the state may choose to leave untouched by its charges, and is a right belonging primarily to the group of persons more or less closely related, which may be called for convenience the family. The person taking under such succession claims justly by right of his family, although as between himself and the other members he must bring himself within some positive law, but such succession is not thereby a mere privilege created as between the state and the taker. There is a third person present, the family, whose rights the state is in duty bound to protect and recognize in selecting the persons to take. In apportioning the family right among its members the state may justly select certain classes of relatives for priority, as is frequently done in favor of the widow and minor children, and according to the same principle, perhaps, it might conceivably widen the circle of taking relatives when the prior classes have received certain specified sums. Such an enlargement of the field of inheritance might in some cases be consistent with the general family right, although its bearing in other directions might raise a variety of questions, for what is withdrawn thereby from one member is appointed to another member also entitled to represent the family right. But when the state, instead of appointing some one or more members of the family group to the possession of the family succession, arbitrarily for its own benefit diverts a part of the estate from all the members of the family or refuses to allow a certain member to participate, except upon a diversion of a part of his nominal share, not for the benefit of other members of the family, but for the state's own benefit, the state in so doing is denying the family right, invading the private right to the private title, and imposing a servitude on the person whose nominal share is encumbered, withheld, or depleted by the arbitrary exaction.

The succession by intestacy rests upon the right to participate in the natural relationships of life and constitutes a part of the private right to a perpetual private title in property, whether, as in the case of land, that title is concurrently subject to a public interest of periodic taxation over the subject-matter itself, or is a title to a kind of property over which, as in the case of the products of human labor, we may contend that the private right should be

exclusive of any public claim of taxation for the mere ownership or enjoyment thereof. The theory of the concurrent existence of a perpetual private title to, and a public servitude of taxation over, a piece of landed property, implies that the public right of taxation is limited to the public servitude according to the nature of the property itself, and not according to the personal accidents of ownership in the hands of some particular owner or class of owners, for the right of the public servitude over a particular piece of property should justly be the same regardless of the temporary ownership. So, too, the assertion of a just private right to any species of property exclusive of any just public claim of taxation for the ownership or enjoyment thereof equally excludes any claim to a just public interest on account of the personal accidents of ownership, for then the private right of enjoyment to the same property or fund would be different, according to these mere accidents. The theory of a perpetual private title, whether with or without a just public claim to periodic taxation over the subject-matter, implies, therefore, a right to receive any legally existing property to one's own use to as large an extent as the prior owner is justly entitled to transfer it, and we come to consider the right to bestow and the power to make a will.

It has already been urged in these pages that the existence of a perpetual private title justly includes the right to transfer it as a part of the enjoyment thereof, for the use and benefit of property would be extremely scanty if the owner were limited to such use as he might make with the particular thing, and if he could not exchange his title for something which, to him, for the time being, seems more acceptable and beneficial. As his right to the title itself is a right to the whole title, subject only to such encumbrances as affect the title itself in any owner's hands, so his right to the equivalent or compensation is entire and not merely a right to so much of the compensation as may remain after a power external to the owner has diverted by its arbitrary choice for its own spontaneous benefit a portion of that compensation; for the claim to deprive the owner of an arbitrarily determined portion implies a claim to make that portion indefinitely large and to absorb the whole at discretion. Thus the right of transfer is an essential part of a complete title, and is not a mere additional privilege for which a special charge may justly be exacted.

As the right of the owner to the whole compensation or equivalent for his title is a part of the right to the title and the enjoyment thereof, so the owner is correspondingly entitled, so far as his rights of property are concerned, to accept such equivalent as seems good to him under any particular circumstances, even though that equivalent may be obviously inadequate to the fair value, and he may, therefore, reduce that compensation or equivalent to the vanishing point and transfer his title as a gift. Thus the size or existence of an equivalent is immaterial to raise a public interest in the transfer of a purely private right and the right to give away one's property is also an essential part of a perfect private title, as a right included in the right to sell, dispose, and transfer,—but always on the supposition that the owner is acting as a reasonable man, not encroaching on the rights of others. Thus a man who is insane may justly, for his own benefit, be restrained from squandering his property by gifts as well as by reckless expenditure, and likewise a man who owes just debts may be said to be under an obligation to his creditors not to impoverish himself by malicious generosity. Within these limits there is admittedly a justification for intervention by the state under its tutelary and protective powers to restrain or revoke the transfer or the gift, either for the benefit of the incompetent donor, or for the benefit of the creditors whose antecedent rights have been threatened.

When, however, an organized state or nation by its governmental power assumes of its own spontaneous arbitrary choice to refuse validity to a gift, merely because it is a gift, except upon the condition of receiving an arbitrary charge from a party to that gift or diverting a portion of the intended gift from the intended beneficiary into the public treasury, it is acting, not by a restraint for the benefit of one who is unreasonably threatening his own interests and who should be guarded from himself, nor for the benefit of one whose antecedent rights are threatened and should be protected, but is imposing a restraint arbitrarily for its own benefit where no public interest exists. In thus encumbering or diverting a gift the government is encroaching on the rights of the recipient in preventing him from receiving so good a title or so large a title as the donor parts with, and is also encroaching on the rights of the donor in depriving him of one kind of enjoyment of a certain portion of his property by diverting it from the desired beneficiary of the gift.

or by requiring the donor to pay an additional sum over and above the amount which he bestows to the real benefit of the beneficiary. In thus restraining the donor and the beneficiary, not for the benefit of themselves or of either or of some person whose rights are threatened, but for the arbitrary spontaneous benefit of the government at its own choice, the government is depriving both parties of the enjoyment of a transaction to which they are both entitled as a right, not as a privilege, in requiring them to transact the business, not in their own right, but primarily in the right of a master, and is thereby asserting a proprietary claim upon them and exercising a servitude over them.

Now, the right to give one's property or to transfer voluntarily the whole of a certain piece or article or fund includes the right to give less than the whole title which the owner has, if less than the whole can at any time be transferred, and thus to divide it into successive interests for different beneficiaries during different periods. This at once raises the question whether the division of a title into successive estates or interests implies any public interest arising thereby. It may be at once objected that, although the right to give away the whole title is a part of the right to the enjoyment of the property, yet the kinds of partial estates or temporary successive interests into which the title may be divided rest entirely within the provisions of the law for recognition or rejection. It is undoubtedly true that the kinds of estates or interests which shall be valid in law are dependent on the law-making power in order to be effective, but this determination must justly be, by general rules of law, adapted to make certain and secure the dealings with the property, and, moreover, it is to be considered as providing for the subdivision of the private title by those who are entitled to deal with it, and not for the interjection of an extraneous interest to divert a portion of the private right. As the whole must consist of all its parts, so the whole private title, when subdivided into successive interests, should be no less than when it is held as a unit, and the sum total of the successive private interests should justly make up as large a private title as if it were not subdivided. Yet if the government declares that at the passing from one estate to another a special charge shall be interposed for the government itself, it is thereby rendering the estate of the new taker less comprehensive than the estate of the previous holder, for it becomes

subject to an extraneous charge which lessens the value or depletes the fund, so that as the process continues the private title in the subject-matter becomes constantly less than before each successive step, and the sum total of the successive private interests becomes less than the original whole title from which they were carved out.

Hence the right to give away one's property includes the right to give away a qualified interest therein, and the just relation of the state to such a transaction is merely to provide reasonable rules as to the legal instruments necessary to accomplish the purpose. So also the right to give away implies the right to retain for one's self a qualified interest in the property without lessening that total private right; for such qualified interest retained is in effect the same as a reconveyance from the donee in the way of compensation for the transfer. The legal machinery necessary to accomplish the purpose effectively must, of course, depend on the law, but the right to seek that purpose and to look to the law for some reasonable means, results from the right to dispose of one's property and enjoy the compensation. As it is justly within the right of the owner, as between himself and the public, to accept less than the full value for his property in the absence of fraud against the rights of others, so it is also within his right to accept for his property the agreement of the new owner to spread the compensation over a period of time, either definitely or indefinitely determined.

Accordingly, if an owner transfers his property to a new owner, and in return the new owner agrees that the old owner shall have a stated periodic payment for the rest of his life, or shall have the use of the property for his life, then that periodic payment or use is merely in the nature of compensation for the transfer, and the transaction is entirely within the rights of transfer incident to a perpetual title in private right. Now this is in effect the situation created when a person transfers his property to another by any kind of instrument to take effect at the death of the owner, although the law may look only at the form of the instrument and describe it in variously different terms. Yet in substance the effect is the same regardless of the legal formalities, and when the government intervenes and refuses to recognize the transaction merely because it depends on an insufficient compensation, or because it confers a gratuitous benefit on the taker, and requires that the estate taken by the beneficiary shall be charged or depleted by a government

exaction, it lessens the private title in preventing the taker from taking so large a share as the disposer disposes of, and in diverting a portion of the intended benefit it violates the right of the disposer to dispose of his private title for so much compensation, much or little, as satisfies him. In thus defeating and depleting the private title in the absence of any public interest or threatened antecedent rights of others, the government, by an act for the spontaneous benefit of the government itself, asserts a proprietary claim to dispose of the rights of both parties and exerts a servitude over them.

The right to bestow by a transfer in life, either outright or by a qualified interest with a reserved estate for the donor in the nature of compensation for the disposition of his title, is a part of the general right to transfer essential to a perpetual title in private right, and is entirely apart from any public interest which may exist over the property by reason of the particular nature thereof, for any such public interest whenever it exists is equally valid against the property in the hands of any owner, so that the mere fact of transfer raises in itself no special public interest thereby. The justification of an interference with the transfer must, therefore, in any case rest upon protecting some antecedent right. Thus there are many rules of law for the methods of making transfers of property, or affecting the validity thereof as between the parties thereto. The laws of France and some other countries, for instance, contain elaborate provisions as to the legality of gifts as affecting the position of the family of the donor. The justice or wisdom of any such provisions is immaterial to the present discussion, but such laws are totally distinct in nature from a governmental diversion of private rights at the arbitrary choice of the government for its own benefit, for they show rather the recognition of a secondary family right along with the primary individual right, the individual right and the family right, together existing within the private right in a perpetual private title. The existence of both these phases of the private right explains the existence of laws apportioning or delimiting these two parts of the private right among conflicting claimants, since such laws come under the tutelary or protective powers of government. Such laws, therefore, do not support any claim to defeat a transfer in whole or in part merely for the government itself.

Whether the right to bestow should or should not be limited

as between the individual right and the family right, there is an additional phase of the matter when the bestowal is within the family, and we then have a combination of the two phases of the private right. Man not only finds himself in this world in the presence of a family to which he may reasonably look for a special degree of friendship and aid, but he also has the right to respond to the corresponding claims of his relatives. He not only has a duty to the immediate family dependent on him, but he has also the right to benefit that family and the members thereof. Thus, when a person is exercising his right to bestow by conferring gifts upon the members of his family, in the absence of any fraud against his just creditors, such a person is not only acting under his individual right, but is in a certain degree recognizing the family right even if the particular member benefited is not one of those who would be immediately selected by the law of intestacy if the donor were dead, for the law of intestacy must act by general rules for the attainment of general ends, and cannot take account of the special circumstances which, in particular cases, may furnish a reason for a special gift to some particular member of the family. But, on the other hand, the right to bestow upon one's family includes also the right to expect that the property which the owner does not wish to dispose of shall go to those to whom he may be said to have a particular right to give it, namely, those who have the claims of kindred, or who may be dependent on him. Accordingly, if the relatives pointed out as beneficiaries by the law of intestacy are perfectly satisfactory as beneficiaries to the owner, he has a right to bestow his property upon them by inaction, with the full confidence that the whole of the property beyond expenses shall go to such persons and not merely the remnant which may be left after answering some extraneous exaction decreed by the government for its own benefit. Thus the diversion of a part of an intestate estate away from the family by the spontaneous action of the government for its own benefit, is not only an infringement of the family right to receive, but indirectly also of the individual right to bestow.

Now, if the transfer of and succession to property by intestacy, or by gift, whether in the life of the giver or to take effect at death, are parts of the general private right in a perpetual private title, according to the foregoing pages, what is the nature of the power to make a will? It is commonly said that the making of a will is

purely a matter created by law and is, therefore, merely a special privilege which may be granted or withheld at the pleasure of the law-making power. It is, in fact, actually withheld from certain classes of persons by the laws of most countries, and is frequently limited in its operation as against certain relatives of the deceased. Thus the widow of the deceased generally has a certain portion beyond the reach of the will of her husband, and in France and some other countries there are strict provisions of law against excluding the children of the testator from certain portions of the estate. From such provisions it is argued that the making of a will is purely an artificial privilege of the law, to be qualified in the full discretion of the state. It is undoubtedly true that a will must, in order to be effective, comply with the requirements of the law, but such requirements are justly founded on the need of security and certainty for those who deal with the property. It does not follow that because the method of making a will, and the scope and the effect of the will must depend on the law of the organized state, that the state is conferring a gratuitous favor which it may withhold or limit for its own benefit. The result of the non-existence of a power to make a will in any particular case, or the result of the failure to comply with the rules of the law for making a will must justly result simply in leaving the property to go as property of which the owner has not disposed and the rights existing by intestacy intervene.

Now, if the state were justly the natural successor to intestate property, and the usual intestate succession within the family were merely a favor granted by the law, then equally the power to make a will would be merely a favor to be conferred in whole or in part by the state at discretion. But if there is justly a family right, as a secondary group right, to demand that the property of which no disposition has been made by the owner shall go in some way among the members of the family, then the power to make a will is not a mere favor at the expense of the state, but is rather an apportionment and delimitation between the primary individual right and the secondary family right co-existing within the limits of the private right of a perpetual title. So much power as is conferred by the power to make a will is not in derogation of any rightful public interest, but is the postponement of the family claims to the individual claims and the creation of a piece of legal machinery for

the exercise of the right to bestow, so that without parting with his property during life a man may enjoy the use of it during his lifetime and indicate its disposition after his death.

Now this is in effect of the same practical result as when a man transfers his property for a compensation consisting of some use or benefit of the property during his life. As such a transaction is within the just limits of the right to transfer any perpetual title, whether or not encumbered by some public interest over the property itself, so the power to make a will is simply a piece of legal machinery for accomplishing in one manner a result which the owner has a just right to accomplish by indirection, and for the accomplishment of which he has a right to demand of the state that some machinery—not any particular machinery—but some machinery or other, shall be provided or recognized. It is admitted that one method as well as another may justly be qualified for the protection of the just claim of those whose rights may be threatened, or for the recognition or delimitation of the family rights, but such qualifications come under the protective right of the state, while the power to make a will, so far as it is conferred at any time or place, is not a mere privilege from the state, but is a recognition of the individual right to bestow as between the individual right and the secondary family right.

As the power to make a will is accordingly to be considered as a recognition of the individual right to bestow, so as between the state and the property owner the power must be exclusive so far as it is allowed at all. That is to say, it may be qualified or withheld in the delimitation of the family right or the protection of the threatened antecedent right of just creditors or others, but it may not be justly conferred merely for its enforced use for the benefit of the state itself. As the right to transfer and bestow either by active gift or by passive intestacy is a right to pass as large a title as the owner has in perpetual private right, so the power to make a will should justly be considered when it exists as the power to pass just as large a title beneficially as may not be required to satisfy the interests reserved for the family or the just claims of creditors or others with antecedent rights. The power to make a will, although only a piece of legal machinery, is yet a recognition of the individual right to bestow, as qualified by the family right or the antecedent rights of others, and so far as it is withheld, the

property excluded by the law from the power must, therefore, justly enure to the benefit of the family right or the antecedent rights of others having just claims upon the estate, and not for the benefit of the state at its own spontaneous choice.

On the other hand, the intended beneficiary under a will, if he is recognized as a person competent to take the intended benefit, should be recognized as competent and entitled to the whole of the benefit which the testator intends to bestow, or in so far as the intended beneficiary is treated as incompetent to receive, the lapse should justly enure to the benefit of some other persons interested in the estate, either under the will or by the family right, and incompetence should not be arbitrarily decreed by the state for its own spontaneous benefit, for the general right to acquire property includes the right to acquire it by any means by which the disposer has power to bestow, and to acquire as large a title and interest as the disposer has the right and the desire to bestow.

If now the government intervenes in the settlement of an estate by will, and, refusing to recognize the validity of the disposition as sufficient to pass as large a beneficial interest as the testator intended, requires the nominal gift or fund to be charged or depleted by an exaction arbitrarily and extraneously determined by and for the government itself for its own benefit, then the government ignores the family right in arbitrarily withholding the power to make a will, not for the benefit of the family or the protection of antecedent rights, but for the benefit of the government itself. It also thereby violates the right of the testator to bestow, in that it diverts a portion of his estate from the intended beneficiary, or requires the testator to bestow an additional benefit on an external power in order to bestow what he desires upon the intended beneficiary; and, moreover, it violates the right of the beneficiary to receive as large and as beneficial a title as the testator has the right to bestow, in that it encumbers or depletes the nominal gift to the beneficiary, not on account of his incompetency to take, enuring to the benefit of the others interested in the estate, but on account of an incompetency created by the government at its own choice and for its own benefit to prevent the intended beneficiary from taking the whole benefit of the intended gift. In thus encumbering or depleting the nominal gift, and requiring that the beneficiary shall take the nominal estate, not primarily in his own right, but in the

right of an external power at that power's arbitrary choice, the government is asserting a servitude over the testator in his lifetime in the enjoyment of his right to dispose, and is exercising a servitude over the beneficiary in the deprivation of that to which he is justly entitled as a matter of private right.

The right of transfer and succession, whether by intestacy, gift, or will, results naturally or logically from the existence of a perpetual private title over any species of property, for such a title implies that it may belong in full to some private person or persons at any particular time, and as the title itself in any hands must be subject to any just public rights which may exist over it by reason of the nature of the property itself, as, for instance, the servitude of periodic taxation in land, so also the fact that the title belongs to one person rather than another is immaterial to any public right, and the transfer or passage of the title, therefore, raises no public interest to encumber, deplete, or defeat, the transfer or succession, either in whole or in part, for the mere spontaneous benefit of the government itself. Nor does the fact that a particular transfer or succession takes place at or by reason of a death raise any additional public interest, for, as death is a natural incident of private life, so the idea of perpetual private title involves the idea that the devolution of the property at death must depend on some principle of private right. Otherwise the title would not be perpetually private, but would be reduced to a mere life estate, with a partial power to dispose, and the organized state would be the sole heir and successor.

Hence, when the government seizes on the fact of death as an occasion for diverting a portion of a private estate, it is in effect making itself the exclusive heir of that portion in defiance of private right. It is admitted that the method or manner of making one kind of transfer rather than another must depend on the provisions of the law, but this is consistent with the idea of private right, for it is designed or should be designed for the protection of the rights of those dealing with the property. In other words, it is merely a form or machinery which the state may justly vary for varying circumstances, but it does not follow that for a particular class of cases it may justly, for its own voluntary benefit, deny it altogether as to the whole or any part of the subject-matter. The American courts, in sustaining the constitutionality of inheritance taxes, have generally taken the position that, in the eye of the law, the devolu-

tion of property at or by reason of death, is to be regarded merely as a special privilege resulting from the forms which the law sanctions rather than from any inherent private right. The Supreme Court of Wisconsin, however, in the recent case of *Nunnemacher v. The State*, while sustaining the constitutionality of the inheritance tax of Wisconsin, recognizes a fundamental private right involved. Mr. Justice Winslow, for the majority of the court, gave the opinion, and therein discussed the question of natural rights in the succession to property at death.

In this Wisconsin case the constitutionality of an inheritance tax was attacked on several grounds. The first and only one necessary to be here considered was "that the right to take property by inheritance or by will is a natural right protected by the constitution, which cannot be wholly taken away or substantially impaired by the legislature." On this point the majority of the court, by Judge Winslow, said: "With the first of these propositions we agree. We are fully aware that the contrary proposition has been stated by the great majority of the courts of this country, including the Supreme Court of the United States. The unanimity with which it is stated is perhaps only equaled by the paucity of reasoning by which it is supported. In its simplest form it is thus stated: The right to take property by devise or descent is the creature of the law, and not a natural right." . . . "The fallacy of the idea that the government creates or withholds property rights at will is very apparent." . . . "That there are inherent rights existing in the people prior to the making of any of our constitutions is a fact recognized and declared by the Declaration of Independence, and by substantially every state constitution." The opinion discusses the constitutional guaranty of "life, liberty and the pursuit of happiness," and says that the term "pursuit of happiness" is a very comprehensive expression which covers a very broad field.

"Unquestionably this expression covers the idea of the acquisition of private property; not that the possession of property is the supreme good, but that there is planted in the breast of every person the desire to possess something useful or something pleasing which will serve to render life enjoyable, which shall be his very own, and which he may dispose of as he chooses, or leave to his children or his dependents at his decease." The opinion quotes with approval the words of Judge Brown, in the case of *United*

States *v.* Perkins (163 U. S. Reports, page 625): "The general consent of the most enlightened nations has from the earliest historical period recognized a natural right in children to inherit the property of their parents."

Continuing, the Wisconsin court says: "So conclusive seems the argument that these rights are a part of the inherent rights which governments, under our conception, are established to conserve, that we feel entirely justified in rejecting the dictum so frequently asserted by such a vast array of courts that these rights are purely statutory and may be wholly taken away by the legislature. It is true that these rights are subject to reasonable regulation by the legislature, lines of descent may be prescribed, the persons who can take as heirs or devisees may be limited, collateral relatives may doubtless be included or cut off, the manner of the execution of wills may be prescribed, and there may be much room for legislative action in determining how much property shall be exempted entirely from the power to will so that dependents may not be entirely cut off. These are all matters within the field of regulation. The fact that these powers exist and have been universally exercised affords no ground for claiming that the legislature may abolish both inheritances and wills, turn every fee-simple title into a mere estate for life, and thus, in effect, confiscate the property of the people once every generation." Accordingly, the court, in sustaining the constitutionality of the law, placed it upon the ground of reasonable regulation and said that "the general principle of inheritance taxation may be justified under the power of reasonable regulation and taxation of transfers of property."

It is not intended herein to criticise the Wisconsin court for its interpretation of its own constitution, nor to disagree with its decision as a mere question of constitutional law, but it is respectfully urged that on the score of justification in its broadest scope, the right of regulation of transfers and devolutions of property, applies to protecting and guarding the interests and rights of the persons dealing with the property, and not to the destruction of such interests and the denial of such rights for an incident not involving a public interest, by the imposition of an extraneous charge diverting a portion of the benefit of the property to the government at the government's own choice; for if the private right to the private title is entire, it is a right to the whole title beneficially, and

not merely a right to the remnant left after the arbitrary choice of the government to divert, while the assertion of a right of the government to divert and defeat a portion of the succession at the government's own choice, seems logically to involve the right to make that portion indefinitely large and thus to defeat the whole private title as well as a portion.

Inheritance taxes are frequently defended on the ground of being a charge for services rendered by the government in furnishing courts for the probate and administration of estates in analogy perhaps to a charge on a toll road for the use thereof. If this can be regarded as a valid justification in the case of some inheritance taxes, it is at least open to several qualifications, namely, that, although the government might exact a charge for the use of the courts which it supplies, such charge should be limited to the cases in which it is necessary to use the courts, and the government should not seek to drive into court for its own benefit property which can be settled out of court. Accordingly, a settlement made in the lifetime of the owner by a gift in trust to take effect at death should not be attacked by the law, for that would be analogous to driving a person through a tollgate merely for the purpose of collecting toll. Yet it is the general practice of inheritance tax laws to attack settlements under deeds made to take effect at death, as well as settlements by intestacy or will, and it is obvious that to limit the field of the tax to intestacies and wills would greatly reduce the revenue from the law.

Again, if such taxes are to be considered merely as charges for the use of the courts, they should be treated as general expenses of the estate, and in the case of wills should not be charged to the legatees distributively, to the reduction of the legacies intended by the testator. But, aside from these considerations is the more fundamental objection that the settlement of estates is not a mere favor or service which the state may perform or decline at pleasure. It is a part of the administration of justice, and by exacting a commission for performing its duty the government is violating the principle that justice should be sold to none and denied to none. Moreover, if the imposition of a probate tax or estate duty as a charge for the use of the courts can be considered as justified in the state which furnishes the courts, it is difficult to see how such a principle can justify a federal tax under a federal system in which

the federal government has no probate jurisdiction within the separate states or the power to change the laws of wills and descents.

If now, as herein contended, the spontaneous interference of the government, either local or national, to defeat for its own benefit the transfer or devolution of property for an incident which does not in itself raise a public interest, is a violation of the private right in the property, and if the rights of disposition and succession at or on account of death are only parts or manifestations of the general rights of transfer involved in the idea of a perpetual title in private right, then the imposition of public charges for the devolution of property at death is in effect the reduction of the private title to a species of feudal tenure, with casualties exacted for the personal condition of the title rather than charges for some public interest involved. In thus subjecting the owners to hold their title primarily in the right of a superior rather than in their own right for the occurrences of their own lives, the government imposes a servitude on them, and these inheritance taxes become analogous to the *relief* and *primer seisin* of feudal times.

These feudal casualties were the logical outgrowth of the original feudal relation of mutuality between lord and tenant for a personal holding of particular land, but, although the mutuality faded and the tenant's estate became hardened into a permanent property right, yet these casualties remained as servitudes upon the people. Blackstone, in Book 2, Chapter 5, says of *reliefs* that "they were looked upon very justly as one of the greatest grievances of the tenure, especially when at the first they were merely arbitrary and at the will of the lord, so that if he pleased to demand an exorbitant relief it was in effect to disinherit the heir." Nor is the modern inheritance tax alleviated in comparison with the feudal casualties in the fact that it is payable to the government rather than to an intermediate power, for the injustice involved is such by reason of the taking rather than by reason of the destination of the payment, and, in fact, the feudal casualties which were most oppressive were those payable to the king by his own tenants in chief.

"The oppression of the feudal conditions of *relief*, *wardship*, and *marriage* was enormously severe for many ages after the Norman Conquest, and even down to the reign of the Stuarts. Upon the death of the tenant *in capite*, his land was seized by the Crown,

and an *inquisitio post mortem* taken before the escheator, stating the description and value of the estate, and the name and age of the heir. The adult heir appeared in court and did homage to the king, and paid his relief and recovered the estate. If the heir was a minor, the land remained in wardship until he was of age, and sued out his writ *de aetate probanda*, and under that process he procured his release from wardship." (Kent's Commentaries, Part 6, Lect. 53.) This procedure has a striking resemblance to the settlement of an estate or a trust under a modern inheritance tax.

In some respects, moreover, the modern inheritance taxes are more grievous than the feudal *reliefs*, for in a federal system such taxes are often demanded both by the local and the central governments, and in case the assets are scattered within the power of several jurisdictions there are frequently several local charges exacted. Whereas the feudal rule in England was that *relief* was payable only once to one lord for one inheritance. Thus Bracton (Book 2, Chapter 36, Section 4), in considering *relief*, says: "And it is to be known, that it is not to be paid except to chief lords and the next feoffors, and if there be several chief lords gradually ascending, each heir shall pay a relief to his feoffor and not to the others; or to the lord the king himself, if by chance he hold of him in chief by military service." And in the next section he says: "Likewise how often, and it is to be known, that it is only once as long as the heir lasts who has once relieved." (Et sciendum, quod non nisi dominis capitalibus et propinquioribus feoffatoribus, et si plures fuerint capitales domini gradatim ascendendo, quilibet haeres relievum dabit suo feofattori et non aliis, vel ipsi domino regi, si forte de eo tenuerit in capite per servitium militare. Item quotiens, et sciendum, quod non nisi semel tantum, scilicet quamdiu haeres duraverit qui semel relavit.) Compare with this the situation under overlapping claims of several states and the nation as lords of inheritances, and we may see how close we are to the conditions of the feudalism which Chancellor Kent condemned as inconsistent with freedom.

Perhaps the American people will insist for years on asserting the claim of probate spoliation through some channel or other; but if so, for very decency's sake, it should be limited to the forum having jurisdiction of the settlement. In an age of growing national consciousness these attacks upon the estates of non-residents

are operating powerfully to foreignize all interstate relations, and if there is no principle of law or comity which can terminate these state duplications it may eventually be necessary to ask for a federal probate, one law, one settlement, one jurisdiction, instead of the present multiplicity of masters. More momentous changes have resulted from less conspicuous causes. The federal constitution itself was largely the result of the lack of self-restraint on the part of the states in dealing with interstate commerce, and if the overlapping exactions of the states to-day should result in the loss of one of their chief functions and ultimately in the amalgamation of the states themselves into one consolidated realm this lack of self-restraint would again receive its reward.

The American inheritance taxes have been repeatedly declared by the courts to be no violation of the constitutional provisions against the taking of private property, on the theory, apparently, that it is not the abstract right of property, but only the legal recognition of property, that is protected by the constitution, and that the legal title to all kinds of property is ineradicably contaminated with the claim of the government to despoil the owner by taxation imposed at discretion, and not on account of any public interest in the kind of property. Such a doctrine, however, is in itself the most absolute assertion of a servitude over the owner by denying the right of private ownership by a perpetual title. The confessed and intentional restoration of the feudal tenures, with their burdensome incidents, in an American state which either by statutory or constructive law or its constitution has abolished such tenures, or their casualties, would doubtless, as regards outstanding titles, be obnoxious to the constitutional provisions against taking private property, since it would involve the taking or enlarging of an estate of superiority to support the casualties in derogation of the existing title of the private owner. Yet by the simple device of calling the exaction a tax it seems to be possible to accomplish precisely the same practical result.

These feudal burdens were very real grievances to the early settlers of New England, and accordingly we find among their earliest enactments in the Massachusetts Body of Liberties of 1641 the following provision: "All our lands and heritages shall be free from all fines and licenses upon alienation, and from all heriots, wardships, liveries, primer seisins, year-day-and-waste, escheats, and

forfeitures, upon the deaths of parents or ancestors, be they natural casual, or judicial." By this act the inhabitants of Massachusetts anticipated by nearly twenty years the abolition of the military tenures in England, and by a century the similar abolition in Scotland. On the Hudson River, too, the old feudal manors even in socage tenure caused trouble well into the nineteenth century. The colonists of New England were no fools, however crude or uncouth they may have been in some respects. They did not always express their wants in scientific language, but at least they knew one thing which they did not want, and that was feudal servitude. Yet to-day in all parts of America many of their successors are eagerly, joyously, exultantly, seeking to restore under other names some of the very oppressions which our predecessors intended to destroy. Appropriate to the present time seems a sentence from Article 26 of the Grand Remonstrance of 1641, when the Long Parliament, referring to land between high and low water mark, complained of "the taking away of men's right under colour of the King's title"; for if men are escaped out of the hands of the feudal barons only to fall into the hands of the implacable organized state, then is democracy merely a multiplex autocracy, and freedom is a word without meaning in the law.

## CHAPTER VIII

### PUBLIC AND PRIVATE RIGHTS

In the case of *The People v. Reardon* (184 New York Reports, page 431), the Court of Appeals of New York sustained the constitutionality of a stamp tax imposed by that state for sales of corporate stock. The opinion was rendered by Judge Vann, who therein made the following observations on tax laws: "All taxation is arbitrary, for it compels the citizen to give up a part of his property; it is generally discriminating, for otherwise everything would be taxed, which has never yet been done, and there would be no exemption on account of education, charity or religion, and frequently it is unreasonable, but that does not make it unconstitutional, even if the result is double taxation." . . . "Arbitrary selection and discrimination characterize the history of legislation, both state and national, with reference to taxation, yet, when all persons and property in the same class are treated alike, it has uniformly been sustained both by the state and federal courts."

If the foregoing words of the learned judge are to be taken merely as setting forth the present condition of the law under the practices of legislatures and the decisions of the courts, his language is only too true and illuminating; but if his words are to be taken as indicating the utter hopelessness of any better basis of public revenue, then they show a terrible hiatus in the scientific justice of our boasted civilization, and may be compared with certain passages from Edmund Burke's feigned argument against all government in civil society in his essay entitled, "A Vindication of Natural Society," as follows:

"All writers on the science of policy are agreed, and they agree with experience, that all governments must frequently infringe the rules of justice to support themselves; that truth must give way to dissimulations, honesty to convenience; and humanity itself to the reigning interest. The whole of this mystery of iniquity is called the reason of state. It is a reason which I own I cannot

penetrate. What sort of a protection is this of the general right, that is maintained by infringing the rights of particulars? What sort of justice is this which is enforced by breaches of its own laws? These paradoxes I leave to be solved by the able heads of legislators and politicians. For my part, I say what a plain man would say on such an occasion. I can never believe that any institution, agreeable to nature, and proper for mankind, could find it necessary, or even expedient, in any case whatsoever, to do what the best and worthiest instincts of mankind warn us to avoid."

The words of Burke were only in pretended argument against established government, in imitation of arguments against established religion, and, therefore, for the purposes of his argument he used the mistakes of government to contend that no government could be "agreeable to nature and proper for mankind." But his words have a hideously vivid application to many of the current practices of taxation, and if we are to believe that some degree of government is "agreeable to nature and proper for mankind," we may equally believe that there must be in natural right some rational basis for the support of government consistently with the natural rights of individual persons, unless we must say that, as government is necessary, therefore, the man exists for the benefit of the organized state or nation rather than the organization for the benefit of the man.

Many will doubtless deny the existence of any natural rights and will be content to look to the organized state as the sufficient source and guaranty of both rights and remedies, but if there are no natural rights, then despotism is merely inexpedient and not unjust. Without in the slightest degree attempting to define the limits of natural rights, the Constitution of the United States of America impliedly recognizes the existence of such a class as natural rights, by specifically prohibiting certain kinds of governmental actions particularly dangerous to human freedom. For instance, one clause declares that "no bill of attainder or *ex post facto* law shall be passed." The first amendment to the constitution says that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press," and guarantees the right of assembly; and the fourth amendment provides that "the right of the people to be secure in their persons, houses, papers, and effects, against unrea-

sonable searches and seizures, shall not be violated," and limits the issue of warrants. The ninth amendment says, moreover: "The enumeration in the constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

Nor is the doctrine of natural rights of merely modern invention. In medieval times, when the law was apparently considered to be co-extensive with justice, there was much discussion of the question whether the people might lawfully, *i. e.*, justly, resist a lawful prince who was violating the rights of his subjects. Obviously, the assumption that the governing prince might be in the act of violating the rights of his subjects implies that some rights have a fundamental basis back of the government itself. Bracton, in his treatise on the laws and customs of England, discusses natural rights. Thus, in Book 1, Chapter 4, he says that "right (*ius*) is sometimes used for natural right, which is always good and fair; sometimes for civil right only; sometimes for pretorian right only; sometimes for that only which results from a sentence." And, in Chapter 5, he says of private right that it "is collected from three sources, either from natural precepts, or from the precepts of nations, or from civil precepts."

After speaking about public and private right, he considers natural right, the right of nations, and civil right, "which may be called a custom sometimes." Natural right he describes in several ways, first as an impulse (*motus*) coming from the nature of the living thing, and gives this definition: "Natural right is that which nature, that is, God himself, has taught all animals." Again he considers that "natural right in a second manner is used to express a certain debt which nature represents for each person."

In regard to the right of nations he says: "Likewise, the right of nations is what human nations observe, and which proceeds from natural right." He applies these principles to manumission in the following manner: "But a manumission is the giving of liberty, that is, the declaration of it, according to some, for liberty, which is of natural right, cannot be taken away by the right of nations, although it has been obscured by the right of nations; for natural rights are immutable. But it is truly said, that he, who manumits, gives liberty, yet it is not his own, but another's liberty, for he gives that which he has not, . . . for natural rights are said to be immutable because they cannot be totally abrogated or

taken away, yet something may have been derogated or detracted from them in fact or in part." (*Iura autem naturalia dicuntur immutabilia quia non possunt ex toto abrogari vel auferri, poterit tamen eis derogari vel detrahi in specie vel in parte.*) By which Bracton seems to mean that no violation or infringement of a natural right, by means of national law, can destroy that right or justify the continued violation thereof in the future.

Bracton's description of natural right as an impulse (*motus*) is not perhaps entirely satisfactory as an exact statement, but it is not necessary here to attempt to give an exact definition or delimitation of natural right. Our common forms of speech seem to recognize its existence. We speak of a "just law," or a "righteous government," whereby we imply that the standard of justice or of right is external to the law or the government. In fact, we may confidently assert the necessity of natural rights until the whole phenomena of human life can be explained by reference solely to the organized state. Bracton's definition of natural right as an impulse suggests, however, that we may look for natural right in the relation between the nature of man and the nature of any particular transaction in which a person may be involved. Justice is the balance between volition and force, and implies a natural right on each side. Every law seeking to restrain the actions of men should contain the three elements, liberty, authority, worthiness, but nothing can be worthy which is unjust. Alexander Hamilton declared that "in framing a government which is to be administered by men over men, the great difficulty lies in this, you must first enable the government to control the governed, and in the next place, *oblige it to control itself.*" In nothing is this more needful than in matters of taxation, on account of the temptation to impose servitudes upon the inhabitants, for a just state is not the proprietor of its inhabitants, but their guardian and protector.<sup>11</sup>

<sup>11</sup>Dr. Rudolf Kobatsch, in his afore-mentioned book, "Internationale Wirtschaftspolitik," at page 156, in considering the right of peaceable foreigners to enter and reside in a country, inquires, "Must the peoples, that is, the individual members of a people, really wait upon the law for the right to reside or establish themselves in another state, until it suits and pleases the states which represent these peoples to unite upon a special settlement treaty? Or, are not all these treaties and the settlement clauses in the commercial treaties rather the halting legalized right, which is preceded by legal usage, customary right, and the elementary necessity of modern international traffic, which has long ago broken the broad road for it?" By which he seems to imply that even in international trade between artificial states there may be natural rights—a point not necessarily material to the present discussion, but interesting nevertheless.

The French Civil Code, in considering servitudes over landed property, speaks of such a servitude in the following manner (Article 639): "It results either from the natural situation of the premises or from the obligations imposed by the law, or from the agreements among the proprietors." (Elle dérive ou de la situation naturelle des lieux, ou des obligations imposées par la loi, ou des conventions entre les propriétaires.) This analysis by the code seems to be not only legislative, but also fundamentally comprehensive as touching all possible interests involved, the thing, the state, the individual. Apply these principles to servitude over human beings. Can we say that the natural situation or condition of a man can justly be the foundation for servitude over him? Shall we not rather say that the natural situation or condition of every man always and everywhere demands freedom as the chance to make the best of himself? Shall, then, the law impose a servitude on the man who is of right entitled to freedom? Such a law is mere force, not founded on antecedent right, and is, therefore, unjust. Or, again, shall we say that a man may justly be held to have submitted himself without recall to a condition of servitude to his neighbor or his fellows merely by a fleeting act of temporary consent or agreement? That would be to consider freedom as the mere absence of all restraint at one moment in order to enable a man to sell himself into slavery, and would be the veritable suicide of freedom. When we refuse to permit a man to destroy his future by his reckless acts, we are not depriving him of his freedom, but preserving him for his freedom.

Thus the very same principles which originate and maintain servitudes over landed property as a thing, deny, forbid, and invalidate the assertion or maintenance of servitudes over persons in the contemplation of right and justice, and such servitudes can find no justification, either in the natural situation of man, or in the impositions of the law, or even in the agreements of individuals. Yet it is precisely at this point that current practices of taxation in even the most civilized lands violate the fundamental rights of man in depriving him of the just use of his own life and its incidents by personal taxation on account thereof. The alleged atrocities in the Kongo State in recent years are in many respects only the logical extremes of the personal systems of taxation in vogue in civilized countries. Yet so far is the popular sentiment from recognizing

the essential wrong involved in the present system that there is a widespread desire to make the system more rigorous and drastic in attacking persons for the ownership of personal property, the receipt of income, and the devolution of property at death, so that every one shall be, if possible, subjected to some deprivation. In the ordinary affairs of life it is generally considered the part of wisdom to accomplish a purpose by co-operating with the enlightened self-interest of other parties involved, but in matters of governmental revenue there seems to be an opinion that the government is not fulfilling its duty unless it is making itself painfully felt by every person.

If taxing is merely taking, the operation is necessarily arbitrary, but if we are to regard government as a natural feature of human life, and as having a just place in that life, we must seek its revenues in some basis of public right not involving the establishment of servitudes over persons. The various methods in vogue for taxing persons on account of their personal property, their incomes, or the settlement of the estates of the deceased, consist in asserting servitudes over persons of some classification determined by the state for its own benefit, and are, therefore, unjust. It is not sufficient to say that because the government needs the money, therefore, it may help itself as it pleases to the goods of the inhabitants. That is in the last analysis the argument of the highwayman, the pirate, and the buccaneer. It is no better than asserting a vast public graft, and makes the state merely a great plunderbund. We have passed beyond the time when it is tolerated that the state shall raise its revenue by the arbitrary selection of persons, but we have not passed beyond the time when the state raises its revenue by the arbitrary selection of classes of persons who are to be attacked merely because of their connection with some fact or act to which they are justly entitled as of right.

In order to exclude the assertion of servitudes over persons we must base the public revenue on some public right naturally involved in the subject-matter in respect to which the governmental power is exerted. Thus and thus only can we place it upon a firm and scientific foundation, consistent alike with the natural functions of government and the natural rights of mankind. This public right naturally and justly exists over the landed property in the community, as an artificial segregation dependent for its existence on

the maintenance of stable society. It also exists naturally and justly over those multitudinous special privileges which, in the form of various franchises, are likewise dependent on a social structure. It may also be found in connection with many lines of business, having a natural public interest or function. In all these cases, as heretofore shown, the existence of the public right is consistent with the existence of a private right, and, on the contrary, requires that as the public right when it exists is supreme over the subject-matter, so its enforcement should be over the subject-matter and not over some person or persons interested in the private right. Thus the public servitude of taxation over land can and should be exercised over the land and not over the owner or occupant, unless the latter is actively disturbing the public right; and in like manner the public interest over franchises and businesses having a public nature should be exerted over the enterprise as such, and not over the persons who may have the ultimate benefits of the private interests therein.

These public interests over certain subject-matters constitute in effect a permanent inalienable endowment to which the scientific state can and should look for its revenue without penalizing its inhabitants personally, and as these public rights exist over certain subject-matters by reason of the natural relation of those subject-matters to the state, so, too, they imply that there can be and should be other subject-matters over which the private right is exclusive. As the public right over any particular subject-matter must be either supreme or non-existent, so the private right, whether or not in any particular case subject to a public right, may justly be described as perpetual. Thus the public and the private rights co-exist without conflict. Accordingly, it is not to wealth as the accumulation of the past, but to the sources of wealth in lands, franchises, and public businesses, as the promise of the future, that the state or government should look for its revenue. The private accumulations of the past represent but the residue of the product of the past after the discharge of the public burdens of the past. To attack this private accumulation as such is, therefore, in its aggregate effects on the community, open to the same objections as the expenditure of a man's capital for current expenses, and even more so, for the life of the individual is limited by death, but the community survives. It may be that in the past the distribution of private interests among different classes of private persons has been unfortunate or unjust,

but the logical remedy should be, not to attack indiscriminately the innocent and the guilty of the present, but to undo the past only when specific wrongs can be shown, and to seek to provide for the future a more equitable balance between private persons rather than to deny and invade private rights by the arbitrary act of the state for its own benefit.

But perhaps it may be objected that the limiting of taxation to subject-matters of public interest would violate the doctrine that taxation should be according to ability. If that doctrine means that taxation should be essentially personal and should depend on the mere financial ability of the victim to answer an execution on judgment, it is hereby specifically denied that it is any part of the government's business to attempt to dictate as to the precise person or persons who shall perform the act of paying or that mere financial ability is any material measure of a particular person's economic relation to the state. But if the doctrine means that taxation should be according to economic ability, then it is contended that that would be accomplished by the operation of the natural laws of trade. If the government restricts itself to imposing a tax merely for some public interest involved in a subject-matter or transaction, the private parties interested will adjust among themselves the payment of the tax as their interests may appear to them; and, since the government gets its money, it ought not to interfere. Thus, as between the landlord and the tenant of a piece of land, it should be immaterial to the state whether the tenant pays a gross rental while the landlord pays the tax, or whether the tenant pays a smaller net rental and the tax. Again, take the case of an excise tax for the production of certain goods or a customs' duty for their importation. The justification for imposing such taxes must rest on a public interest as to certain kinds of goods which shall be produced or introduced within a certain country, and such interest relates to the fact or transaction. If the government once gets its charges in a particular case, it is of no just concern to it that the producer or importer may recoup himself by obtaining a higher price. To attempt to make him sell at the same price as if there were no tax would be preëminently unjust.<sup>12</sup>

As to the immateriality of the mere financial ability of par-

<sup>12</sup>Dr. Kobatsch's book on international economic policy contains an illuminating chapter on tariff-tolls and their working.

ticular persons a piece of mortgaged land furnishes an apt illustration. Suppose two persons, brothers perhaps, own together in equal shares a piece of land worth two million dollars. Each will naturally pay half the taxes thereon. One brother is more enterprising than the other, and wishes to develop the land. The first purchases the share of the second, and in payment gives him a mortgage for one million dollars on the whole. The purchasing brother agrees to pay the taxes on the property in full and to pay the seller a certain net interest on the mortgage. No new value has been created. The two brothers are still interested in the same property. The public servitude of taxation over the land is not lessened. Is there any reason for interfering between these parties and requiring an additional tax from either merely because they are now interested in the property by priority rather than equality? The financial ability of each party is the same afterward as before. One millionaire has agreed to carry the tax on the whole property and have all benefits beyond the mortgage and the other millionaire has no tax to pay, but is limited to his mortgage and the interest thereon. Both parties are satisfied and the public interest is not injured. Such a transaction is entirely legal in some jurisdictions without any additional tax, but some jurisdictions require an additional tax either because of the mortgage or the interest therefrom. Now here is a case in which the financial ability of two millionaires has not the slightest relation to the public right involved, and such financial ability is, therefore, in itself no just reason for imposing an additional tax for either the principal or the income of either. The establishment of one such case is enough to defeat the contention that mere financial ability of the person should be the object of attack in taxation.

Nor does the operation of a tax on landed property touch the financial ability of the private owner, when such a piece of property is on an investment basis, for the shrewd purchaser will estimate according to his best judgment the probable amount of the tax on the premises as a part of the expense of carrying the investment and will allow for that tax as for other expenses, like repairs and insurance, so that he will not give more than a price such that the residue of the probable rentals after caring for the expenses will yield him what he considers a fair income for his investment according to the current rate of interest. Thus the purchaser of

landed property on an investment basis has the opportunity for the full market return for his financial ability embarked in the enterprise, and has an economic ability to pay the tax on the property. It is precisely analogous to allowing for an outstanding mortgage on the property. The principle will naturally be the same, whether the tax is estimated by reference to the capital value of the property or the income therefrom, provided the means for collection are reasonably effective. When a piece of landed property is on a speculative basis, the tax may or may not affect the owner's financial ability according to the turn of the market, but on the theory that the tax is justly a prime charge on the land, there is still an economic ability, for the purchase of such speculative land is analogous to the purchase of a piece subject to a mortgage, and the owner pays the tax, as he takes care of the mortgage, for the purpose of protecting his economic interest in the property.

Now, in the case of personal property, and personal incomes, there seems good reason to believe that the same investment principle will operate so far as conditions are similar, that is, when the situation is such that the government has some hold on the property itself or on the source of the income before it comes into the hands of the investor; and in such cases the investor will estimate his price according to the probable return which will come to him. This situation may most easily arise in the case of certain kinds of representative securities, as, for instance, when the government collects a tax from the debtor and authorizes him to deduct it from the payments to the security holder, or when the security, like a mortgage, is a matter of public record and controlled by the government's tax officials. If such a situation is created effectively the investor will naturally make allowance for the nominal payments which he never gets or which he certainly must pay over for the tax, and will lower the price which he will give for the investment, or raise the nominal interest charged to a level where the actual return to him will seem to be a fair return at market rates. Thus the financial ability of the investor is again untouched and the debtor, in order to raise a certain capital, must either lower the price of his securities or raise the nominal income to offset the probable tax; which is thus in effect shifted, so that so far as a personal property tax or a personal income tax is really effective for revenue purposes at the source, it at once defeats itself, and its

purpose to attack the financial ability of the investor is discounted by him and the real burden thrown over on the other party by the arbitrary intervention of the government irrespective of any public right involved.

But very many classes of personal property and incomes are of such a character as to be physically out of reach of the government, which can, therefore, only attempt to discover the private owner or recipient and hold him liable. In such cases the tax is obviously not literally "on" the property or the income, but on the person who may be discovered and charged. In any particular case there is thus a chance that the facts may not be discovered and those persons who think that they can successfully conceal the facts may be willing to give considerably more for an investment security than would clearly be a sufficient price if the tax were certain of collection. A comparison of current prices for taxable and non-taxable securities of the same general class does not always show such a divergence as would be naturally expected from a consideration of the tax theoretically in force, but the different laws of different jurisdictions frequently make a market for a security as non-taxable in one state although taxable in others.

When a particular investment is of the taxable class in a particular jurisdiction, although the chance of discovery may be small in the aggregate, yet in the particular case where the tax is enforced it falls as a distinct injury on the holder of an investment whose price may be figured in the market on the expectation that a tax will seldom be collectible. In such a case the tax is an actual encroachment on the financial ability of the owner, but without any economic ability to justify it. The tax, then, in the particular case is not according to ability, either financially or economically, for in the particular case it falls fortuitously on some person who for some reason has not been able to maintain the secrecy which is assumed in the market price to be possible to a considerable proportion of investors. Obviously the same principles will tend to operate whether the tax is large or small, and whether figured in reference to the capital or the income, if the collection of the tax for such securities depends on discovering the private person's dealings. Thus those can best afford to hold such an investment who are the most skilful in evasion, and one of the prominent effects of these taxes for personal property and income is to put a premium on

such skill and exclude certain classes of legitimate investments from the more scrupulous portion of the population except upon a penalty for their scrupulousness.

The difficulty of discovering certain large classes of personal property is one of the motives urged for imposing the inheritance taxes which just now seem so popular. Aside from the mathematical error in attacking estates indiscriminately, whether or not invested in property of a kind that is likely to escape the taxes which legally accrue in the life of the owner, it is obvious that, so far as any particular taxes are fundamentally unjust, the difficulty of collecting them generally should be a reason for abandoning them and not for continuing the injustice and supplementing it by further injustice of the same general kind. These inheritance taxes are even less according to economic ability than taxes for personal property and income, for they are purely fortuitous personal casualties without any general basis upon which even an approximate allowance may be made in the market price as a partial buffer to the investor's estate. Nor do they fall according to any general financial ability. They attack and deplete the financial ability of the estate or the beneficiary in a purely arbitrary manner, not having any relation even in theory to the general financial ability of persons in the community, except as the mere possession of resources implies the chance or physical ability to lose them in whole or in part. A distinct loss externally imposed for an unpreventable but totally uncertain event can hardly be said to rest on ability either economic or financial. The fundamental thought in imposing a tax on lands, franchises, or a business with a public character, is that by reason of a public servitude or interest in or over the subject-matter the state or government has a right to a voice or claim in the management, benefit, or product of that subject-matter. The fundamental thought in imposing a tax for personal property, income, or the estates of the deceased, seems to be that the property or benefit belongs to private persons and may, therefore, be taken away from them by the state. This is essentially the denial of the private right, the assertion of a proprietary claim over the persons affected, and results in the establishment of servitudes over such persons.

The theory on which these personal taxes rest does not apply merely to any one class in the community. It is not a method of simply offsetting the faults of the vicious rich. Even if a line can be

drawn beyond which the mere size of a fortune rather than the use or misuse of it can be said to be objectionable, these taxes are not merely applicable in theory to such cases of excess. The theory of them applies to every class in the community, and it is only by the mercy of the legislature or the excessive cost of collection that to some extent poorer persons are frequently exempted from their rigor. If they should be enforced literally against all classes, we should find ourselves under a bureaucracy comparable to that of Russia and a surveillance resembling that of Germany.

Behold the condition of the thrifty, industrious citizen when these taxes are in full force. He buys or hires a piece of land for the use of his business; and either directly, as owner to protect his title, or indirectly, through his rental to the landlord, he pays the tax for the public interest in the land during his occupation. He uses the land and his own skill to produce products, and has a surplus left after supplying his needs. This surplus product he lays aside for the future, and the next year the state comes, in the guise of its officials, who have discovered the surplus, and says: "Give me so much from your surplus, for I need it in my business." But, says the owner, "I produced this myself and paid you for your public interest in the land on which I produced it. This is mine to keep for myself." "No," says the state, "because you have it, therefore, a part must be taken away from you. If you had been less industrious or more extravagant you would have the benefit of all your product, but now you must surrender part for your prudence."

Perhaps he has exchanged part of his surplus product for the goods of others, and again the story is the same. The man says it is his because it is the compensation for his product. The state says he must surrender part merely because he "has" it. Or, again, perhaps he has exchanged his product for gold, silver, or other ready medium of exchange, and has in turn put out the compensation as a loan for a fixed compensation. Again the state comes in, if its officials discover the fact, and demands a payment because the man has saved something, for there is nothing like the sight of ready money in private hands to excite the cupidity of the taxing legislature. So, although the man has limited his compensation to a fixed amount for postponing the use of his surplus, yet he is not to be allowed to keep all of that, but must be taxed, either because he has money at interest or has received interest from money loaned.

Again, perhaps he has invested his surplus in a legitimate enterprise in another country, and the fact becomes known to the officials at his home, who at once make demand upon him. The man replies, "All claims against the enterprise in which I am interested either have been or will be paid by that enterprise in the country where it is situated. This is a matter beyond your just jurisdiction." But the state says, "I will not allow my subjects to have the benefit of property in other jurisdictions," and so the man again must pay at home for the ownership of his goods in another country, or for holding stock in a foreign corporation or company, or because he has received the income which gives value to such foreign holdings.

Perhaps the man is not blessed or encumbered with possessions, but is active, skilful and energetic, and for his own labor and skill receives large compensation periodically. Again the state comes and says, "Pay me for the income which you have earned, and the man replies, "If I have earned it, does it not belong to me?" The state says, "Yes, it belongs to you, but I will not let my subjects work for themselves unless they also work for me as much as I choose to say." If, after all these assaults upon him for his property, his earnings, or his savings, there is anything beyond a pittance left at the time of his death, the settlement of his estate must be obstructed, if present voices shall have their way in all states, and as a matter of fact actually is obstructed in many states until the brooding, watchful, envious government, or perhaps two or three governments, national and local, shall have taken so much as the legislature by its own choice may have determined, and only the remnant can go to the dependent family or the friends to whom the deceased wished to show his friendship.

Thus the peaceable, industrious citizen may go through life penalized for his possessions and prosperity, with the confident assurance that at his death his family or dependents will be more or less despoiled. Verily, to adopt the words used by Blackstone in reference to the feudal tenures: "A slavery so complicated, and so extensive, calls aloud for a remedy in a nation that boasts of her freedom." Yet, instead of remedy, the cry in many quarters is to make the law more severe against private persons, while the public interests in the lands of the country are partially neglected, and vast franchises are exploited by special parties, and the governments of state and nation rely on vexatious and inquisitorial taxes which are

unkind, unsound, and unjust, and are, moreover, needless if there is any just basis for public and private rights.

Perhaps it may be objected that hardships may result under any method of government revenue, as, for instance, by an excise or import tax for some product of great consequence to the community. This is undoubtedly true, but unless we are to condemn all excises and tariffs utterly, which is not at all intended herein, such hardship is an injury to the community generally and not to particular persons by violating their private rights, for such a hardship consists merely in an increase of the price of goods in the market, but no private person can be said to have a vested right to buy goods at any particular price. Otherwise it would be the duty of the state to fix the prices of articles in the market. The whole teaching of history shows the uselessness of that policy.

The fundamental argument, however, of this whole discussion is not the mere hardship in special cases. The wrong consists in the invasion of personality in violation of the rights of mankind. Why is it that men love liberty in the abstract, and fear freedom in fact? Is it not because they are too prone to take pride in association with some artificial institution or combination of men, as the army, the navy, the aristocracy, the state, the nation, rather than in their own personality as human beings? There is no better touchstone of natural rights than the ancient precept of the Golden Rule, which may be transposed into juristic language by saying: refrain from doing that which, if done to you, you would regard as unjust. This should apply to the actions of aggregations of men in their collective capacity towards a person as well as to the actions of one man to another.

Herbert Spencer seems to have expressed this thought. In discussing the difference between the relation of a physical organism to its constituent organs and the relation of a social organism to its members he uses the following language: "The last and perhaps the most important distinction is that while in the body of an animal only a special tissue is endowed with feeling, in society all the members are endowed with feeling. . . . It is well that the lives of all parts of an animal should be merged in the life of the whole, because the whole has a corporate consciousness capable of happiness or misery. But it is not so with a society, since its living units do not and cannot lose individual consciousness, and

since the community, as a whole, has no corporate consciousness. And this is the everlasting reason why the welfare of citizens cannot rightly be sacrificed to some supposed benefit of the state, but why, on the other hand, the state is to be maintained for the benefit of citizens. The corporate life must here be subservient to the lives of the parts, instead of the lives of the parts being subservient to the corporate life."

The same general thought seems to be suggested in an opinion by Mr. Justice Bradley, for the Supreme Court of the United States, in the case of *Boyd v. United States* (116 U. S. Reports, page 616, at page 630). The case deals with the question of unreasonable searches and seizures under the fourth amendment to the American Constitution, and, although not directly in point, has a suggestive bearing on inquisitorial methods of taxation. Mr. Justice Bradley discusses at length the opinion of Lord Camden in 1765, in the case of *Entick v. Carrington* (19 Howell's State Trials, page 1029), in regard to searches and seizures under the English law, and expresses his own views as follows: "The principles laid down in this opinion affect the very essence of constitutional liberty and security. They reach farther than the concrete form of the case then before the court, with its adventitious circumstances; they apply to all invasions on the part of the government and its employees of the sanctity of a man's home and the privacies of life. It is not the breaking of his doors and the rummaging of his drawers, that constitutes the essence of the offense, but it is the invasion of his indefeasible right of personal security, personal liberty, and private property, where that right has never been forfeited by his conviction of some public offense—it is the invasion of this sacred right which underlies and constitutes the essence of Lord Camden's judgment. Breaking into a house and opening boxes and drawers are circumstances of aggravation; but any forcible and compulsory extortion of a man's own testimony or of his private papers, to be used as evidence to convict him of a crime or to forfeit his goods, is within the condemnation of that judgment." And later, in the same opinion, Mr. Justice Bradley says that "any compulsory discovery by extorting the party's oath, or compelling the production of his private books and papers, to convict him of a crime, or to forfeit his property, is contrary to the principles of a free government. It is abhorrent to the instincts of an Englishman; it is abhorrent to

the instincts of an American. It may suit the purposes of despotic power; but it cannot abide the pure atmosphere of political liberty and personal freedom."

Dr. George A. Gordon, pastor of the Old South Church in Boston, has expressed a similar idea in the chapter on "Humanity," in his book, "Ultimate Conceptions of Faith." At page 199 he speaks as follows: "Among the permanent guardians of humanity, there stands first man's own nature, his personality. The admission of human personality is eventually the trumpet of doom to slavery, serfdom and caste. Kant's famous dictum that personality implies that man is an end to himself, and that he should never become means either to another's purposes or to his own inclinations, is an availing protest. Use things, but use them wisely; use animals, but use them kindly; use men never; that is the edict from the throne of moral personality. Under the historic expression of moral personality, family exclusiveness, social snobbery, governmental injustice, and religious narrowness have slowly yielded. The increasing pressure of manhood has been availing. The wider realization of personality among the masses of men through education of the intellect and the will is already effecting enormous changes in the social order. As he rises in intelligence and character man must continue to count for more; and as society is affected with the sense of human personality its consideration for the unfortunate must become deeper and more practical. Social groups have been formed upon social distinctions; and so long as these are not exclusive they are legitimate enough. But the admission that man is man, the increasing consciousness of personality that has forced this admission calls for the wider recognition of what is common in the race. When moral worth is the great title to consideration, and the capacity for it the distinctive mark of man, a force is liberated that will finally inaugurate the reign of human brotherhood. Meanwhile practical Christianity goes about building up moral personality. Ancient tyrannies would have been impossible but for the absence of manhood among the people. When Diogenes said that he had never seen a man he uncovered the whole opportunity of secular barbarity, social exclusiveness, political injustice, and religious quackery. Men's ideas of the race will be very different when over great circles of population they compel respect for one another. A whole world of bad social ethics, and worse social practice, and

equally reprehensible theology, would utterly vanish, if suddenly men were to face one another in the fullness and strength of a great moral experience. The first witness that the true social ultimate is mankind is the worth and inviolableness of human personality."

This, then, is the philosophy, the law, the doctrine, of humanity, that mankind is of right entitled to the ownership of his own life and the benefits of the incidents thereof, and to freedom therein, not as the absence of all restraint, but as the chance to make the best of himself; and this, too, not merely as against his fellows in their individual capacity, but even more against them in their collective capacity as an organized state, for the evil intentions of a private man may often be averted by appeals to his better nature, but when a government deliberately sets out to inflict wrongs, it is well nigh relentless. Our forefathers of the eighteenth century proclaimed that "taxation without representation is tyranny," on the theory that representation implied consent, but they assumed that those could be justly charged with consent who were powerless to dissent. Our fathers of the nineteenth century determined that private property in human flesh was an intolerable idea, but they were appalled only at slavery between private persons. It is perhaps for the twentieth century to declare that personal taxation is an injustice, as involving the assertion of servitude over persons which no consent can justly validate. Since the dawn of intellectual freedom in the renaissance of the fifteenth century, each century succeeding has witnessed some struggle toward some phase of freedom, religious, civil, political, national. The signs are not lacking that the twentieth century may witness the seeking and striving for industrial freedom. Toward that end no more vital or important step can be taken than the abrogation of personal taxation, not for the purpose of promoting the grasping greed of acquisition and retention, but with a profound sense of the dignity of humanity and the sanctity of human personality.



